

Senator Latz from the Committee on Judiciary and Public Safety, to which was re-referred

S.F. No. 2394: A bill for an act relating to health occupations; creating a physician assistant licensure compact; proposing coding for new law in Minnesota Statutes, chapter 148.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1 PHYSICIAN ASSISTANTS

Section 1. [148.675] PHYSICIAN ASSISTANT LICENSURE COMPACT.

The physician assistant (PA) licensure compact is enacted into law and entered into with all other jurisdictions legally joining in it in the form substantially specified in this section.

ARTICLE I

TITLE

This statute shall be known and cited as the physician assistant licensure compact.

ARTICLE II

DEFINITIONS

As used in this compact, and except as otherwise provided, the following terms have the meanings given them.

(a) "Adverse action" means any administrative, civil, equitable, or criminal action permitted by a state's laws that is imposed by a licensing board or other authority against a PA license, license application, or compact privilege such as license denial, censure, revocation, suspension, probation, monitoring of the licensee, or restriction on the licensee's practice.

(b) "Charter participating states" means the states that enacted the compact prior to the commission convening.

(c) "Compact privilege" means the authorization granted by a remote state to allow a licensee from another participating state to practice as a PA to provide medical services or other licensed activities to a patient located in the remote state under the remote state's laws and regulations.

2.1 (d) "Conviction" means a finding by a court that an individual is guilty of a felony or
2.2 misdemeanor offense through adjudication or entry of a plea of guilt or no contest to the
2.3 charge by the offender.

2.4 (e) "Criminal background check" means the submission of fingerprints or other
2.5 biometric-based information for a license applicant for the purpose of obtaining that
2.6 applicant's criminal history record information, as defined in Code of Federal Regulations,
2.7 title 28, part 20, subpart 20.3, clause (d), from the state's criminal history record repository,
2.8 as defined in Code of Federal Regulations, title 28, part 20, subpart 20.3, clause (f).

2.9 (f) "Data system" means the repository of information about licensees, including but not
2.10 limited to license status and adverse action, that is created and administered under the terms
2.11 of this compact.

2.12 (g) "Executive committee" means a group of directors and ex officio individuals elected
2.13 or appointed pursuant to article VII, paragraph (f), clause (2).

2.14 (h) "Impaired practitioner" means a PA whose practice is adversely affected by a
2.15 health-related condition that impacts the PA's ability to practice.

2.16 (i) "Investigative information" means information, records, and documents received or
2.17 generated by a licensing board pursuant to an investigation.

2.18 (j) "Jurisprudence requirement" means the assessment of an individual's knowledge of
2.19 the laws and rules governing the practice of a PA in a state.

2.20 (k) "License" means current authorization by a state, other than authorization pursuant
2.21 to a compact privilege, for a PA to provide medical services, which would be unlawful
2.22 without current authorization.

2.23 (l) "Licensee" means an individual who holds a license from a state to provide medical
2.24 services as a PA.

2.25 (m) "Licensing board" means any state entity authorized to license and otherwise regulate
2.26 PAs.

2.27 (n) "Medical services" means health care services provided for the diagnosis, prevention,
2.28 treatment, cure, or relief of a health condition, injury, or disease, as defined by a state's laws
2.29 and regulations.

2.30 (o) "Model compact" means the model for the PA licensure compact on file with the
2.31 Council of State Governments or other entity as designated by the commission.

2.32 (p) "Participating state" means a state that has enacted this compact.

(q) "PA" means an individual who is licensed as a physician assistant in a state. For purposes of this compact, any other title or status adopted by a state to replace the term "physician assistant" shall be deemed synonymous with "physician assistant" and shall confer the same rights and responsibilities to the licensee under the provisions of this compact at the time of its enactment.

(r) "PA Licensure Compact Commission" or "compact commission" or "commission" means the national administrative body created pursuant to article VII, paragraph (a).

(s) "Qualifying license" means an unrestricted license issued by a participating state to provide medical services as a PA.

(t) "Remote state" means a participating state where a licensee who is not licensed as a PA is exercising or seeking to exercise the compact privilege.

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

(v) "Significant investigative information" means investigative information that a licensing board, after an inquiry or investigation that includes notification and an opportunity for the PA to respond if required by state law, has reason to believe is not groundless and, if proven true, would indicate more than a minor infraction.

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

ARTICLE III

STATE PARTICIPATION IN THE COMPACT

(a) To participate in this compact, a participating state must:

(1) license PAs;

(2) participate in the commission's data system;

(3) have a mechanism in place for receiving and investigating complaints against licensees and license applicants;

(4) notify the commission, in compliance with the terms of this compact and commission rules, of any adverse action against the licensee or license applicant and the existence of significant investigative information regarding a licensee or license applicant;

(5) fully implement a criminal background check requirement, within a time frame established by commission rule, by its licensing board receiving the results of a criminal

4.1 background check and reporting to the commission whether the license applicant has been
4.2 granted a license;

4.3 (6) fully comply with the rules of the compact commission;

4.4 (7) utilize a recognized national examination such as the National Commission on
4.5 Certification of Physician Assistants (NCCPA) physician assistant national certifying
4.6 examination as a requirement for PA licensure; and

4.7 (8) grant the compact privilege to a holder of a qualifying license in a participating state.

4.8 (b) Nothing in this compact prohibits a participating state from charging a fee for granting
4.9 the compact privilege.

4.10 ARTICLE IV

4.11 COMPACT PRIVILEGE

4.12 (a) To exercise the compact privilege, a licensee must:

4.13 (1) have graduated from a PA program accredited by the Accreditation Review
4.14 Commission on Education for the Physician Assistant, Inc. or other programs authorized
4.15 by commission rule;

4.16 (2) hold current NCCPA certification;

4.17 (3) have no felony or misdemeanor convictions;

4.18 (4) have never had a controlled substance license, permit, or registration suspended or
4.19 revoked by a state or by the United States Drug Enforcement Administration;

4.20 (5) have a unique identifier as determined by commission rule;

4.21 (6) hold a qualifying license;

4.22 (7) have had no revocation of a license or limitation or restriction due to an adverse
4.23 action on any currently held license;

4.24 (8) if a licensee has had a limitation or restriction on a license or compact privilege due
4.25 to an adverse action, two years must have elapsed from the date on which the license or
4.26 compact privilege is no longer limited or restricted due to the adverse action;

4.27 (9) if a compact privilege has been revoked or is limited or restricted in a participating
4.28 state for conduct that would not be a basis for disciplinary action in a participating state in
4.29 which the licensee is practicing or applying to practice under a compact privilege, that
4.30 participating state shall have the discretion not to consider such action as an adverse action
4.31 requiring the denial or removal of a compact privilege in that state;

5.1 (10) notify the compact commission that the licensee is seeking the compact privilege
5.2 in a remote state;

5.3 (11) meet any jurisprudence requirement of a remote state in which the licensee is seeking
5.4 to practice under the compact privilege and pay any fees applicable to satisfying the
5.5 jurisprudence requirement; and

5.6 (12) report to the commission any adverse action taken by any nonparticipating state
5.7 within 30 days after the date the action is taken.

5.8 (b) The compact privilege is valid until the expiration or revocation of the qualifying
5.9 license unless terminated pursuant to an adverse action. The licensee must also comply with
5.10 all of the requirements of paragraph (a) to maintain the compact privilege in a remote state.
5.11 If the participating state takes adverse action against a qualifying license, the licensee shall
5.12 lose the compact privilege in any remote state in which the licensee has a compact privilege
5.13 until all of the following occur:

5.14 (1) the license is no longer limited or restricted; and

5.15 (2) two years have elapsed from the date on which the license is no longer limited or
5.16 restricted due to the adverse action.

5.17 (c) Once a restricted or limited license satisfies the requirements of paragraph (b), the
5.18 licensee must meet the requirements of paragraph (a) to obtain a compact privilege in any
5.19 remote state.

5.20 (d) For each remote state in which a PA seeks authority to prescribe controlled substances,
5.21 the PA shall satisfy all requirements imposed by such state in granting or renewing such
5.22 authority.

5.23 ARTICLE V

5.24 DESIGNATION OF THE STATE FROM WHICH LICENSEE IS APPLYING FOR
5.25 COMPACT PRIVILEGE

5.26 Upon a licensee's application for a compact privilege, the licensee must identify to the
5.27 commission the participating state from which the licensee is applying, in accordance with
5.28 applicable rules adopted by the commission, and subject to the following requirements:

5.29 (1) the licensee must provide the commission with the address of the licensee's primary
5.30 residence and thereafter shall immediately report to the commission any change in the
5.31 address of the licensee's primary residence; and

(2) the licensee must consent to accept service of process by mail at the licensee's primary residence on file with the commission with respect to any action brought against the licensee by the commission or a participating state, including a subpoena, with respect to any action brought or investigation conducted by the commission or a participating state.

ARTICLE VI

ADVERSE ACTIONS

(a) A participating state in which a licensee is licensed shall have exclusive power to impose adverse action against the qualifying license issued by that participating state.

(b) In addition to the other powers conferred by state law, a remote state shall have the authority, in accordance with existing state due process law, to do the following:

(1) take adverse action against a PA's compact privilege in the state to remove a licensee's compact privilege or take other action necessary under applicable law to protect the health and safety of its citizens; and

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

(c) Notwithstanding paragraph (b), clause (1), subpoenas may not be issued by a participating state to gather evidence of conduct in another state that is lawful in that other state, for the purpose of taking adverse action against a licensee's compact privilege or application for a compact privilege in that participating state.

(d) Nothing in this compact authorizes a participating state to impose discipline against a PA's compact privilege or to deny an application for a compact privilege in that participating state for the individual's otherwise lawful practice in another state.

(e) For purposes of taking adverse action, the participating state which issued the qualifying license shall give the same priority and effect to reported conduct received from any other participating state as it would if the conduct had occurred within the participating state which issued the qualifying license. In so doing, that participating state shall apply its own state laws to determine appropriate action.

7.1 (f) A participating state, if otherwise permitted by state law, may recover from the
7.2 affected PA the costs of investigations and disposition of cases resulting from any adverse
7.3 action taken against that PA.

7.4 (g) A participating state may take adverse action based on the factual findings of a remote
7.5 state, provided that the participating state follows its own procedures for taking the adverse
7.6 action.

7.7 (h) Joint investigations:

7.8 (1) in addition to the authority granted to a participating state by its respective state PA
7.9 laws and regulations or other applicable state law, any participating state may participate
7.10 with other participating states in joint investigations of licensees; and

7.11 (2) participating states shall share any investigative, litigation, or compliance materials
7.12 in furtherance of any joint or individual investigation initiated under this compact.

7.13 (i) If an adverse action is taken against a PA's qualifying license, the PA's compact
7.14 privilege in all remote states shall be deactivated until two years have elapsed after all
7.15 restrictions have been removed from the state license. All disciplinary orders by the
7.16 participating state which issued the qualifying license that impose adverse action against a
7.17 PA's license shall include a statement that the PA's compact privilege is deactivated in all
7.18 participating states during the pendency of the order.

7.19 (j) If any participating state takes adverse action, it promptly shall notify the administrator
7.20 of the data system.

7.21 ARTICLE VII

7.22 ESTABLISHMENT OF THE PA LICENSURE COMPACT COMMISSION

7.23 (a) The participating states hereby create and establish a joint government agency and
7.24 national administrative body known as the PA Licensure Compact Commission. The
7.25 commission is an instrumentality of the compact states acting jointly, and is not an
7.26 instrumentality of any one state. The commission shall come into existence on or after the
7.27 effective date of the compact as set forth in article XI, paragraph (a).

7.28 (b) Membership, voting, and meetings:

7.29 (1) each participating state shall have and be limited to one delegate selected by that
7.30 participating state's licensing board or, if the state has more than one licensing board, selected
7.31 collectively by the participating state's licensing boards;

7.32 (2) the delegate shall be:

8.1 (i) a current PA, physician, or public member of a licensing board or PA council or
8.2 committee; or

8.3 (ii) an administrator of a licensing board;

8.4 (3) any delegate may be removed or suspended from office as provided by the laws of
8.5 the state from which the delegate is appointed;

8.6 (4) the participating state board shall fill any vacancy occurring in the commission within
8.7 60 days;

8.8 (5) each delegate shall be entitled to one vote on all matters voted on by the commission
8.9 and shall otherwise have an opportunity to participate in the business and affairs of the
8.10 commission;

8.11 (6) a delegate shall vote in person or by such other means as provided in the bylaws.
8.12 The bylaws may provide for delegates' participation in meetings by telecommunications,
8.13 video conference, or other means of communication;

8.14 (7) the commission shall meet at least once during each calendar year. Additional
8.15 meetings shall be held as set forth in this compact and the bylaws; and

8.16 (8) the commission shall establish by rule a term of office for delegates.

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

8.18 (1) establish a code of ethics for the commission;

8.19 (2) establish the fiscal year of the commission;

8.20 (3) establish fees;

8.21 (4) establish bylaws;

8.22 (5) maintain its financial records in accordance with the bylaws;

8.23 (6) meet and take such actions as are consistent with the provisions of this compact and
8.24 the bylaws;

8.25 (7) promulgate rules to facilitate and coordinate implementation and administration of
8.26 this compact. The rules shall have the force and effect of law and shall be binding in all
8.27 participating states;

8.28 (8) bring and prosecute legal proceedings or actions in the name of the commission,
8.29 provided that the standing of any state licensing board to sue or be sued under applicable
8.30 law shall not be affected;

- 9.1 (9) purchase and maintain insurance and bonds;
- 9.2 (10) borrow, accept, or contract for services of personnel, including but not limited to
9.3 employees of a participating state;
- 9.4 (11) hire employees and engage contractors, elect or appoint officers, fix compensation,
9.5 define duties, grant such individuals appropriate authority to carry out the purposes of this
9.6 compact, and establish the commission's personnel policies and programs relating to conflicts
9.7 of interest, qualifications of personnel, and other related personnel matters;
- 9.8 (12) accept any and all appropriate donations and grants of money, equipment, supplies,
9.9 materials, and services, and receive, utilize, and dispose of the same, provided that at all
9.10 times the commission shall avoid any appearance of impropriety or conflict of interest;
- 9.11 (13) lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold,
9.12 improve, or use, any property, real, personal, or mixed, provided that at all times the
9.13 commission shall avoid any appearance of impropriety;
- 9.14 (14) sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of
9.15 any property real, personal, or mixed;
- 9.16 (15) establish a budget and make expenditures;
- 9.17 (16) borrow money;
- 9.18 (17) appoint committees, including standing committees composed of members, state
9.19 regulators, state legislators or their representatives, and consumer representatives, and such
9.20 other interested persons as may be designated in this compact and the bylaws;
- 9.21 (18) provide and receive information from, and cooperate with, law enforcement agencies;
- 9.22 (19) elect a chair, vice chair, secretary, and treasurer and such other officers of the
9.23 commission as provided in the commission's bylaws;
- 9.24 (20) reserve for itself, in addition to those reserved exclusively to the commission under
9.25 the compact, powers that the executive committee may not exercise;
- 9.26 (21) approve or disapprove a state's participation in the compact based upon its
9.27 determination as to whether the state's compact legislation departs in a material manner
9.28 from the model compact language;
- 9.29 (22) prepare and provide to the participating states an annual report; and
- 9.30 (23) perform such other functions as may be necessary or appropriate to achieve the
9.31 purposes of this compact consistent with the state regulation of PA licensure and practice.

10.1 (d) Meetings of the commission:

10.2 (1) all meetings of the commission that are not closed pursuant to this paragraph shall
10.3 be open to the public. Notice of public meetings shall be posted on the commission's website
10.4 at least 30 days prior to the public meeting;

10.5 (2) notwithstanding clause (1), the commission may convene a public meeting by
10.6 providing at least 24 hours' prior notice on the commission's website, and any other means
10.7 as provided in the commission's rules, for any of the reasons it may dispense with notice of
10.8 proposed rulemaking under article IX, paragraph (l);

10.9 (3) the commission may convene in a closed, nonpublic meeting or nonpublic part of a
10.10 public meeting to receive legal advice or to discuss:

10.11 (i) noncompliance of a participating state with its obligations under this compact;

10.12 (ii) the employment, compensation, discipline, or other matters, practices, or procedures
10.13 related to specific employees, or other matters related to the commission's internal personnel
10.14 practices and procedures;

10.15 (iii) current, threatened, or reasonably anticipated litigation;

10.16 (iv) negotiation of contracts for the purchase, lease, or sale of goods, services, or real
10.17 estate;

10.18 (v) accusing any person of a crime or formally censuring any person;

10.19 (vi) disclosure of trade secrets or commercial or financial information that is privileged
10.20 or confidential;

10.21 (vii) disclosure of information of a personal nature where disclosure would constitute a
10.22 clearly unwarranted invasion of personal privacy;

10.23 (viii) disclosure of investigative records compiled for law enforcement purposes;

10.24 (ix) disclosure of information related to any investigative reports prepared by or on
10.25 behalf of, or for use of, the commission or other committee charged with responsibility of
10.26 investigation or determination of compliance issues pursuant to this compact;

10.27 (x) legal advice; or

10.28 (xi) matters specifically exempted from disclosure by federal or participating states'
10.29 statutes;

11.1 (4) if a meeting, or portion of a meeting, is closed pursuant to clause (3), the chair of
11.2 the meeting or the chair's designee shall certify that the meeting or portion of the meeting
11.3 may be closed and shall reference each relevant exempting provision; and

11.4 (5) the commission shall keep minutes that fully and clearly describe all matters discussed
11.5 in a meeting and shall provide a full and accurate summary of actions taken, including a
11.6 description of the views expressed. All documents considered in connection with an action
11.7 shall be identified in such minutes. All minutes and documents of a closed meeting shall
11.8 remain under seal, subject to release by a majority vote of the commission or order of a
11.9 court of competent jurisdiction.

11.10 (e) Financing of the commission:

11.11 (1) the commission shall pay, or provide for the payment of, the reasonable expenses of
11.12 its establishment, organization, and ongoing activities;

11.13 (2) the commission may accept any and all appropriate revenue sources, donations, and
11.14 grants of money, equipment, supplies, materials, and services;

11.15 (3) the commission may levy on and collect an annual assessment from each participating
11.16 state and may impose compact privilege fees on licensees of participating states to whom
11.17 a compact privilege is granted, to cover the cost of the operations and activities of the
11.18 commission and its staff. The cost of the operations and activities of the commission and
11.19 its staff must be in a total amount sufficient to cover its annual budget as approved by the
11.20 commission each year for which revenue is not provided by other sources. The aggregate
11.21 annual assessment amount levied on participating states shall be allocated based upon a
11.22 formula to be determined by commission rule:

11.23 (i) a compact privilege expires when the licensee's qualifying license in the participating
11.24 state from which the licensee applied for the compact privilege expires; and

11.25 (ii) if the licensee terminates the qualifying license through which the licensee applied
11.26 for the compact privilege before its scheduled expiration, and the licensee has a qualifying
11.27 license in another participating state, the licensee shall inform the commission that it is
11.28 changing the participating state through which it applies for a compact privilege to the other
11.29 participating state and pay to the commission any compact privilege fee required by
11.30 commission rule;

11.31 (4) the commission shall not incur obligations of any kind prior to securing the funds
11.32 adequate to meet the same, nor shall the commission pledge the credit of any of the
11.33 participating states, except by and with the authority of the participating state; and

12.1 (5) the commission shall keep accurate accounts of all receipts and disbursements. The
12.2 receipts and disbursements of the commission shall be subject to the financial review and
12.3 accounting procedures established under its bylaws. All receipts and disbursements of funds
12.4 handled by the commission shall be subject to an annual financial review by a certified or
12.5 licensed public accountant, and the report of the financial review shall be included in and
12.6 become part of the annual report of the commission.

12.7 (f) The executive committee:

12.8 (1) the executive committee shall have the power to act on behalf of the commission
12.9 according to the terms of this compact and commission rules;

12.10 (2) the executive committee shall be composed of nine members as follows:

12.11 (i) seven voting members who are elected by the commission from the current
12.12 membership of the commission;

12.13 (ii) one ex officio, nonvoting member from a recognized national PA professional
12.14 association; and

12.15 (iii) one ex officio, nonvoting member from a recognized national PA certification
12.16 organization;

12.17 (3) the ex officio members will be selected by their respective organizations;

12.18 (4) the commission may remove any member of the executive committee as provided
12.19 in its bylaws;

12.20 (5) the executive committee shall meet at least annually;

12.21 (6) the executive committee shall have the following duties and responsibilities:

12.22 (i) recommend to the entire commission changes to the commission's rules or bylaws,
12.23 changes to this compact legislation, fees paid by compact participating states such as annual
12.24 dues, and any commission compact fee charged to licensees for the compact privilege;

12.25 (ii) ensure compact administration services are appropriately provided, contractual or
12.26 otherwise;

12.27 (iii) prepare and recommend the budget;

12.28 (iv) maintain financial records on behalf of the commission;

12.29 (v) monitor compact compliance of participating states and provide compliance reports
12.30 to the commission;

12.31 (vi) establish additional committees as necessary;

13.1 (vii) exercise the powers and duties of the commission during the interim between
13.2 commission meetings, except for issuing proposed rulemaking or adopting commission
13.3 rules or bylaws, or exercising any other powers and duties exclusively reserved to the
13.4 commission by the commission's rules; and

13.5 (viii) perform other duties as provided in commission's rules or bylaws;

13.6 (7) all meetings of the executive committee at which it votes or plans to vote on matters
13.7 in exercising the powers and duties of the commission shall be open to the public, and public
13.8 notice of such meetings shall be given as public meetings of the commission are given; and

13.9 (8) the executive committee may convene in a closed, nonpublic meeting for the same
13.10 reasons that the commission may convene in a nonpublic meeting as set forth in paragraph
13.11 (d), clause (3), and shall announce the closed meeting as the commission is required to
13.12 under paragraph (d), clause (4), and keep minutes of the closed meeting as the commission
13.13 is required to under paragraph (d), clause (5).

13.14 (g) Qualified immunity, defense, and indemnification:

13.15 (1) the members, officers, executive director, employees, and representatives of the
13.16 commission shall be immune from suit and liability, both personally and in their official
13.17 capacity, for any claim for damage to or loss of property or personal injury or other civil
13.18 liability caused by or arising out of any actual or alleged act, error, or omission that occurred,
13.19 or that the person against whom the claim is made had a reasonable basis for believing
13.20 occurred, within the scope of commission employment, duties, or responsibilities, provided
13.21 that nothing in this paragraph shall be construed to protect any such person from suit or
13.22 liability for any damage, loss, injury, or liability caused by the intentional or willful or
13.23 wanton misconduct of that person. The procurement of insurance of any type by the
13.24 commission shall not in any way compromise or limit the immunity granted hereunder;

13.25 (2) the commission shall defend any member, officer, executive director, employee, or
13.26 representative of the commission in any civil action seeking to impose liability arising out
13.27 of any actual or alleged act, error, or omission that occurred within the scope of commission
13.28 employment, duties, or responsibilities, or that the person against whom the claim is made
13.29 had a reasonable basis for believing occurred within the scope of commission employment,
13.30 duties, or responsibilities, provided that nothing herein shall be construed to prohibit that
13.31 person from retaining their own counsel at their own expense, and provided further that the
13.32 actual or alleged act, error, or omission did not result from that person's intentional or willful
13.33 or wanton misconduct;

14.1 (3) the commission shall indemnify and hold harmless any member, officer, executive
14.2 director, employee, or representative of the commission for the amount of any settlement
14.3 or judgment obtained against that person arising out of any actual or alleged act, error, or
14.4 omission that occurred within the scope of commission employment, duties, or
14.5 responsibilities, or that such person had a reasonable basis for believing occurred within
14.6 the scope of commission employment, duties, or responsibilities, provided that the actual
14.7 or alleged act, error, or omission did not result from the intentional or willful or wanton
14.8 misconduct of that person;

14.9 (4) except as provided under paragraph (i), venue is proper and judicial proceedings by
14.10 or against the commission shall be brought solely and exclusively in a court of competent
14.11 jurisdiction where the principal office of the commission is located. The commission may
14.12 waive venue and jurisdictional defenses in any proceedings as authorized by commission
14.13 rules;

14.14 (5) nothing herein shall be construed as a limitation on the liability of any licensee for
14.15 professional malpractice or misconduct, which shall be governed solely by any other
14.16 applicable state laws;

14.17 (6) nothing herein shall be construed to designate the venue or jurisdiction to bring
14.18 actions for alleged acts of malpractice, professional misconduct, negligence, or other such
14.19 civil action pertaining to the practice of a PA. All such matters shall be determined
14.20 exclusively by state law other than this compact;

14.21 (7) nothing in this compact shall be interpreted to waive or otherwise abrogate a
14.22 participating state's state action immunity or state action affirmative defense with respect
14.23 to antitrust claims under the federal Sherman Act, Clayton Act, or any other state or federal
14.24 antitrust or anticompetitive law or regulation; and

14.25 (8) nothing in this compact shall be construed to be a waiver of sovereign immunity by
14.26 the participating states or by the commission.

14.27 (h) Notwithstanding paragraph (g), clause (1), the liability of the executive director,
14.28 employees, or representatives of the interstate commission, acting within the scope of their
14.29 employment or duties, may not exceed the limits of liability set forth under the constitution
14.30 and laws of this state for state officials, employees, and agents. This paragraph expressly
14.31 incorporates section 3.736, and neither expands nor limits the rights and remedies provided
14.32 under that statute.

14.33 (i) Except for a claim alleging a violation of this compact, a claim against the commission,
14.34 its executive director, employees, or representatives alleging a violation of the constitution

15.1 and laws of this state may be brought in any county where the plaintiff resides. Nothing in
15.2 this paragraph creates a private right of action.

15.3 ARTICLE VIII

15.4 DATA SYSTEM

15.5 (a) The commission shall provide for the development, maintenance, and utilization of
15.6 a coordinated database and reporting system containing licensure and adverse action
15.7 information, and the reporting of significant investigative information on all licensed PAs
15.8 and applicants denied a license in participating states.

15.9 (b) Notwithstanding any other state law to the contrary, a participating state shall submit
15.10 a uniform data set to the data system on all PAs to whom this compact is applicable, using
15.11 a unique identifier, as required by the rules of the commission, including:

15.12 (1) identifying information;

15.13 (2) licensure data;

15.14 (3) adverse actions against a license or compact privilege;

15.15 (4) any denial of application for licensure and the reason or reasons for the denial,
15.16 excluding the reporting of any criminal history record information where prohibited by law;

15.17 (5) the existence of significant investigative information; and

15.18 (6) other information that may facilitate the administration of this compact, as determined
15.19 by the rules of the commission.

15.20 (c) Significant investigative information pertaining to a licensee in any participating
15.21 state shall only be available to other participating states.

15.22 (d) The commission shall promptly notify all participating states of any reports it receives
15.23 of any adverse action taken against a licensee or an individual applying for a license. This
15.24 adverse action information shall be available to any other participating state.

15.25 (e) Participating states contributing information to the data system may, in accordance
15.26 with state or federal law, designate information that may not be shared with the public
15.27 without the express permission of the contributing state. Notwithstanding any such
15.28 designation, such information shall be reported to the commission through the data system.

15.29 (f) Any information submitted to the data system that is subsequently expunged by
15.30 federal law or the laws of the participating state contributing the information shall be removed
15.31 from the data system upon reporting of such by the participating state to the commission.

(g) The records and information provided to a participating state pursuant to this compact or through the data system, when certified by the commission or an agent thereof, shall constitute the authenticated business records of the commission and shall be entitled to any associated hearsay exception in any relevant judicial, quasi-judicial, or administrative proceedings in a participating state.

ARTICLE IX

RULEMAKING

(a) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this article and the rules adopted thereunder. Commission rules shall become binding as of the date specified by the commission for each rule.

(b) The commission shall promulgate reasonable rules in order to effectively and efficiently implement and administer this compact and achieve its purposes. A commission rule shall be invalid and have no force or effect only if a court of competent jurisdiction holds that the rule is invalid because the commission exercised its rulemaking authority in a manner that is beyond the scope of the purposes of this compact, or the powers granted hereunder, or based upon another applicable standard of review.

(c) The rules of the commission shall have the force of law in each participating state, provided however that where the rules of the commission conflict with the laws of the participating state that establish the medical services a PA may perform in the participating state, as held by a court of competent jurisdiction, the rules of the commission shall be ineffective in that state to the extent of the conflict.

(d) If a majority of the legislatures of the participating states rejects a commission rule, by enactment of a statute or resolution in the same manner used to adopt the compact within four years of the date of adoption of the rule, then such rule shall have no further force and effect in any participating state or in any state applying to participate in the compact.

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

(f) Prior to promulgation and adoption of a final rule or rules by the commission and at least 30 days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:

(1) on the website of the commission or other publicly accessible platform;

(2) to persons who have requested notice of the commission's notices of proposed rulemaking; and

- 17.1 (3) in such other ways as the commission may specify by rule.
- 17.2 (g) The notice of proposed rulemaking shall include:
- 17.3 (1) the time, date, and location of the public hearing on the proposed rule;
- 17.4 (2) the time, date, and location of the public hearing in which the proposed rule will be
- 17.5 considered and voted upon;
- 17.6 (3) the text of the proposed rule and the reason for the proposed rule;
- 17.7 (4) a request for comments on the proposed rule from any interested person and the date
- 17.8 by which written comments must be received; and
- 17.9 (5) the manner in which interested persons may submit notice to the commission of their
- 17.10 intention to attend the public hearing and any written comments.
- 17.11 (h) Prior to adoption of a proposed rule, the commission shall allow persons to submit
- 17.12 written data, facts, opinions, and arguments, which shall be made available to the public.
- 17.13 (i) If the hearing is held via electronic means, the commission shall publish the mechanism
- 17.14 for access to the electronic hearing:
- 17.15 (1) all persons wishing to be heard at the hearing shall notify the commission of their
- 17.16 desire to appear and testify at the hearing, not less than five business days before the
- 17.17 scheduled date of the hearing, as directed in the notice of proposed rulemaking;
- 17.18 (2) hearings shall be conducted in a manner providing each person who wishes to
- 17.19 comment a fair and reasonable opportunity to comment orally or in writing;
- 17.20 (3) all hearings shall be recorded. A copy of the recording and the written comments,
- 17.21 data, facts, opinions, and arguments received in response to the proposed rulemaking shall
- 17.22 be made available to a person on request; and
- 17.23 (4) nothing in this section shall be construed as requiring a separate hearing on each
- 17.24 rule. Proposed rules may be grouped for the convenience of the commission at hearings
- 17.25 required by this article.
- 17.26 (j) Following the public hearing, the commission shall consider all written and oral
- 17.27 comments timely received.
- 17.28 (k) The commission shall, by majority vote of all delegates, take final action on the
- 17.29 proposed rule and shall determine the effective date of the rule, if adopted, based on the
- 17.30 rulemaking record and the full text of the rule. The commission:
- 17.31 (1) shall, if adopted, post the rule on the commission's website;

(2) may adopt changes to the proposed rule provided the changes do not expand the original purpose of the proposed rule;

(3) shall provide on its website an explanation of the reasons for substantive changes made to the proposed rule as well as reasons for substantive changes not made that were recommended by commenters; and

(4) shall determine a reasonable effective date for the rule. Except for an emergency as provided in paragraph (l), the effective date of the rule shall be no sooner than 30 days after the commission issued the notice that it adopted the rule.

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

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

(2) prevent a loss of commission or participating state funds;

(3) meet a deadline for the promulgation of a commission rule that is established by federal law or rule; or

(4) protect public health and safety.

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

(n) No participating state's rulemaking requirements shall apply under this compact.

ARTICLE X

OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

19.1 (a) Oversight:

19.2 (1) the executive and judicial branches of state government in each participating state
19.3 shall enforce this compact and take all actions necessary and appropriate to implement the
19.4 compact;

19.5 (2) venue is proper and judicial proceedings by or against the commission shall be
19.6 brought solely and exclusively in a court of competent jurisdiction where the principal office
19.7 of the commission is located. The commission may waive venue and jurisdictional defenses
19.8 to the extent it adopts or consents to participate in alternative dispute resolution proceedings.
19.9 Nothing herein shall affect or limit the selection or propriety of venue in any action against
19.10 a licensee for professional malpractice, misconduct, or any such similar matter; and

19.11 (3) the commission shall be entitled to receive service of process in any such proceeding
19.12 regarding the enforcement or interpretation of the compact or the commission's rules and
19.13 shall have standing to intervene in such a proceeding for all purposes. Failure to provide
19.14 service of process to the commission shall render a judgment or order void as to the
19.15 commission, this compact, or commission rules.

19.16 (b) Default, technical assistance, and termination:

19.17 (1) if the commission determines that a participating state has defaulted in the
19.18 performance of its obligations or responsibilities under this compact or the commission
19.19 rules, the commission shall:

19.20 (i) provide written notice to the defaulting state and other participating states describing
19.21 the default, the proposed means of curing the default, or any other action that the commission
19.22 may take; and

19.23 (ii) offer remedial training and specific technical assistance regarding the default;

19.24 (2) if a state in default fails to cure the default, the defaulting state may be terminated
19.25 from this compact upon an affirmative vote of a majority of the delegates of the participating
19.26 states, and all rights, privileges, and benefits conferred by this compact may be terminated
19.27 on the effective date of termination. A cure of the default does not relieve the offending
19.28 state of obligations or liabilities incurred during the period of default;

19.29 (3) termination of participation in this compact shall be imposed only after all other
19.30 means of securing compliance have been exhausted. Notice of intent to suspend or terminate
19.31 shall be given by the commission to the governor, the majority and minority leaders of the
19.32 defaulting state's legislature, and the licensing board or boards of each of the participating
19.33 states;

(4) a state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination;

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

(6) the defaulting state may appeal its termination from the compact by the commission by petitioning the United States District Court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney fees; and

(7) upon the termination of a state's participation in the compact, the state shall immediately provide notice to all licensees within that state of such termination:

(i) licensees who have been granted a compact privilege in that state shall retain the compact privilege for 180 days following the effective date of such termination; and

(ii) licensees who are licensed in that state who have been granted a compact privilege in a participating state shall retain the compact privilege for 180 days, unless the licensee also has a qualifying license in a participating state or obtains a qualifying license in a participating state before the 180-day period ends, in which case the compact privilege shall continue.

(c) Dispute resolution:

(1) upon request by a participating state, the commission shall attempt to resolve disputes related to this compact that arise among participating states and between participating and nonparticipating states; and

(2) the commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes, as appropriate.

(d) Enforcement:

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

(2) if compliance is not secured after all means to secure compliance have been exhausted, by majority vote, the commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the commission has its principal offices against a participating state in default, to enforce compliance with the

21.1 provisions of this compact and the commission's promulgated rules and bylaws. The relief
21.2 sought may include both injunctive relief and damages. In the event judicial enforcement
21.3 is necessary, the prevailing member shall be awarded all costs of such litigation, including
21.4 reasonable attorney fees; and

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

21.7 (e) Legal action against the commission:

21.8 (1) a participating state may initiate legal action against the commission in the United
21.9 States District Court for the District of Columbia or the federal district where the commission
21.10 has its principal offices to enforce compliance with the provisions of the compact and the
21.11 commission's rules. The relief sought may include both injunctive relief and damages. In
21.12 the event judicial enforcement is necessary, the prevailing party shall be awarded all costs
21.13 of such litigation, including reasonable attorney fees; and

21.14 (2) no person other than a participating state shall enforce this compact against the
21.15 commission.

21.16 ARTICLE XI

21.17 DATE OF IMPLEMENTATION OF THE PA LICENSURE COMPACT COMMISSION

21.18 (a) This compact shall come into effect on the date on which the compact statute is
21.19 enacted into law in the seventh participating state.

21.20 (b) On or after the effective date of the compact, the commission shall convene and
21.21 review the enactment of each of the charter participating states to determine if the statute
21.22 enacted by each charter participating state is materially different than the model compact.
21.23 A charter participating state whose enactment is found to be materially different from the
21.24 model compact shall be entitled to the default process set forth in article X, paragraph (b).

21.25 (c) If any participating state later withdraws from the compact or its participation is
21.26 terminated, the commission shall remain in existence and the compact shall remain in effect
21.27 even if the number of participating states should be less than seven. Participating states
21.28 enacting the compact subsequent to the commission convening shall be subject to the process
21.29 set forth in article VII, paragraph (c), clause (21), to determine if their enactments are
21.30 materially different from the model compact and whether they qualify for participation in
21.31 the compact.

21.32 (d) Any participating state enacting the compact subsequent to the seven initial charter
21.33 participating states shall be subject to the process set forth in article VII, paragraph (c),

22.1 clause (21), to determine if the state's enactment is materially different from the model
22.2 compact and whether the state qualifies for participation in the compact.

22.3 (e) All actions taken for the benefit of the commission or in furtherance of the purposes
22.4 of the administration of the compact prior to the effective date of the compact or the
22.5 commission coming into existence shall be considered to be actions of the commission
22.6 unless specifically repudiated by the commission.

22.7 (f) Any state that joins this compact shall be subject to the commission's rules and bylaws
22.8 as they exist on the date on which this compact becomes law in that state. Any rule that has
22.9 been previously adopted by the commission shall have the full force and effect of law on
22.10 the day this compact becomes law in that state.

22.11 (g) Any participating state may withdraw from this compact by enacting a statute
22.12 repealing the same:

22.13 (1) a participating state's withdrawal shall not take effect until 180 days after enactment
22.14 of the repealing statute. During this 180-day period, all compact privileges that were in
22.15 effect in the withdrawing state and were granted to licensees licensed in the withdrawing
22.16 state shall remain in effect. If any licensee licensed in the withdrawing state is also licensed
22.17 in another participating state or obtains a license in another participating state within the
22.18 180 days, the licensee's compact privileges in other participating states shall not be affected
22.19 by the passage of the 180 days;

22.20 (2) withdrawal shall not affect the continuing requirement of the state licensing board
22.21 or boards of the withdrawing state to comply with the investigative and adverse action
22.22 reporting requirements of this compact prior to the effective date of withdrawal; and

22.23 (3) upon the enactment of a statute withdrawing a state from this compact, the state shall
22.24 immediately provide notice of such withdrawal to all licensees within that state. Such
22.25 withdrawing state shall continue to recognize all licenses granted pursuant to this compact
22.26 for a minimum of 180 days after the date of such notice of withdrawal.

22.27 (h) Nothing contained in this compact shall be construed to invalidate or prevent any
22.28 PA licensure agreement or other cooperative arrangement between participating states or a
22.29 participating state and a nonparticipating state that does not conflict with the provisions of
22.30 this compact.

22.31 (i) This compact may be amended by the participating states. No amendment to this
22.32 compact shall become effective and binding upon any participating state until it is enacted

23.1 materially in the same manner into the laws of all participating states, as determined by the
23.2 commission.

23.3 ARTICLE XII

23.4 CONSTRUCTION AND SEVERABILITY

23.5 (a) This compact and the commission's rulemaking authority shall be liberally construed
23.6 so as to effectuate the purposes of the compact and its implementation and administration.
23.7 Provisions of the compact expressly authorizing or requiring the promulgation of rules shall
23.8 not be construed to limit the commission's rulemaking authority solely for those purposes.

23.9 (b) The provisions of this compact shall be severable and if any phrase, clause, sentence,
23.10 or provision of this compact is held by a court of competent jurisdiction to be contrary to
23.11 the constitution of any participating state, of a state seeking participation in the compact,
23.12 or of the United States, or the applicability thereof to any government, agency, person, or
23.13 circumstance is held to be unconstitutional by a court of competent jurisdiction, the validity
23.14 of the remainder of this compact and the applicability thereof to any government, agency,
23.15 person, or circumstance shall not be affected thereby.

23.16 (c) Notwithstanding paragraph (b) or any provision of this article, the commission may
23.17 deny a state's participation in the compact or, in accordance with the requirements of article
23.18 X, paragraph (b), terminate a participating state's participation in the compact, if it determines
23.19 that a constitutional requirement of a participating state is, or would be with respect to a
23.20 state seeking to participate in the compact, a material departure from the compact. Otherwise,
23.21 if this compact shall be held to be contrary to the constitution of any participating state, the
23.22 compact shall remain in full force and effect as to the remaining participating states and in
23.23 full force and effect as to the participating state affected as to all severable matters.

23.24 ARTICLE XIII

23.25 BINDING EFFECT OF THE COMPACT

23.26 (a) Nothing herein prevents the enforcement of any other law of a participating state
23.27 that is not inconsistent with this compact.

23.28 (b) Any laws in a participating state in conflict with this compact are superseded to the
23.29 extent of the conflict.

23.30 (c) All agreements between the commission and the participating states are binding in
23.31 accordance with their terms.

23.32 **EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 2. DIRECTION TO BOARD OF MEDICAL PRACTICE.

25.1 (F) "Current significant investigative information" means investigative information that
25.2 a licensing board, after an inquiry or investigation that includes notification and an
25.3 opportunity for the occupational therapist or occupational therapy assistant to respond, if
25.4 required by state law, has reason to believe is not groundless and, if proven true, would
25.5 indicate more than a minor infraction.

25.6 (G) "Data system" means a repository of information about licensees, including but not
25.7 limited to license status, investigative information, compact privileges, and adverse actions.

25.8 (H) "Encumbered license" means a license in which an adverse action restricts the
25.9 practice of occupational therapy by the licensee or said adverse action has been reported to
25.10 the National Practitioners Data Bank (NPDB).

25.11 (I) "Executive committee" means a group of directors elected or appointed to act on
25.12 behalf of, and within the powers granted to them by, the commission.

25.13 (J) "Home state" means the member state that is the licensee's primary state of residence.

25.14 (K) "Impaired practitioner" means an individual whose professional practice is adversely
25.15 affected by substance abuse, addiction, or other health-related conditions.

25.16 (L) "Investigative information" means information, records, or documents received or
25.17 generated by an occupational therapy licensing board pursuant to an investigation.

25.18 (M) "Jurisprudence requirement" means the assessment of an individual's knowledge
25.19 of the laws and rules governing the practice of occupational therapy in a state.

25.20 (N) "Licensee" means an individual who currently holds an authorization from the state
25.21 to practice as an occupational therapist or as an occupational therapy assistant.

25.22 (O) "Member state" means a state that has enacted the compact.

25.23 (P) "Occupational therapist" means an individual who is licensed by a state to practice
25.24 occupational therapy.

25.25 (Q) "Occupational therapy assistant" means an individual who is licensed by a state to
25.26 assist in the practice of occupational therapy.

25.27 (R) "Occupational therapy," "occupational therapy practice," and "the practice of
25.28 occupational therapy" mean the care and services provided by an occupational therapist or
25.29 an occupational therapy assistant as set forth in the member state's statutes and regulations.

25.30 (S) "Occupational therapy compact commission" or "commission" means the national
25.31 administrative body whose membership consists of all states that have enacted the compact.

26.1 (T) "Occupational therapy licensing board" or "licensing board" means the agency of a
26.2 state that is authorized to license and regulate occupational therapists and occupational
26.3 therapy assistants.

26.4 (U) "Primary state of residence" means the state, also known as the home state, in which
26.5 an occupational therapist or occupational therapy assistant who is not active duty military
26.6 declares a primary residence for legal purposes as verified by driver's license, federal income
26.7 tax return, lease, deed, mortgage, or voter registration or other verifying documentation as
26.8 further defined by commission rules.

26.9 (V) "Remote state" means a member state other than the home state where a licensee is
26.10 exercising or seeking to exercise the compact privilege.

26.11 (W) "Rule" means a regulation promulgated by the commission that has the force of
26.12 law.

26.13 (X) "State" means any state, commonwealth, district, or territory of the United States
26.14 of America that regulates the practice of occupational therapy.

26.15 (Y) "Single-state license" means an occupational therapist or occupational therapy
26.16 assistant license issued by a member state that authorizes practice only within the issuing
26.17 state and does not include a compact privilege in any other member state.

26.18 (Z) "Telehealth" means the application of telecommunication technology to deliver
26.19 occupational therapy services for assessment, intervention, or consultation.

26.20 ARTICLE III

26.21 STATE PARTICIPATION IN THE COMPACT

26.22 (A) To participate in the compact, a member state shall:

26.23 (1) license occupational therapists and occupational therapy assistants;

26.24 (2) participate fully in the commission's data system, including but not limited to using
26.25 the commission's unique identifier as defined in rules of the commission;

26.26 (3) have a mechanism in place for receiving and investigating complaints about licensees;

26.27 (4) notify the commission, in compliance with the terms of the compact and rules, of
26.28 any adverse action or the availability of investigative information regarding a licensee;

26.29 (5) implement or utilize procedures for considering the criminal history records of
26.30 applicants for an initial compact privilege. These procedures shall include the submission
26.31 of fingerprints or other biometric-based information by applicants for the purpose of obtaining

27.1 an applicant's criminal history record information from the Federal Bureau of Investigation
27.2 and the agency responsible for retaining that state's criminal records;

27.3 (i) A member state shall, within a time frame established by the commission, require a
27.4 criminal background check for a licensee seeking or applying for a compact privilege whose
27.5 primary state of residence is that member state by receiving the results of the Federal Bureau
27.6 of Investigation criminal record search, and shall use the results in making licensure
27.7 decisions.

27.8 (ii) Communication between a member state, the commission, and among member states
27.9 regarding the verification of eligibility for licensure through the compact shall not include
27.10 any information received from the Federal Bureau of Investigation relating to a federal
27.11 criminal records check performed by a member state under Public Law 92-544;

27.12 (6) comply with the rules of the commission;

27.13 (7) utilize only a recognized national examination as a requirement for licensure pursuant
27.14 to the rules of the commission; and

27.15 (8) have continuing competence or education requirements as a condition for license
27.16 renewal.

27.17 (B) A member state shall grant the compact privilege to a licensee holding a valid
27.18 unencumbered license in another member state in accordance with the terms of the compact
27.19 and rules.

27.20 (C) Member states may charge a fee for granting a compact privilege.

27.21 (D) A member state shall provide for the state's delegate to attend all occupational therapy
27.22 compact commission meetings.

27.23 (E) Individuals not residing in a member state shall continue to be able to apply for a
27.24 member state's single-state license as provided under the laws of each member state.
27.25 However, the single-state license granted to these individuals shall not be recognized as
27.26 granting the compact privilege in any other member state.

27.27 (F) Nothing in this compact shall affect the requirements established by a member state
27.28 for the issuance of a single-state license.

27.29 ARTICLE IV

27.30 COMPACT PRIVILEGE

27.31 (A) To exercise the compact privilege under the terms and provisions of the compact,
27.32 the licensee shall:

- 28.1 (1) hold a license in the home state;
- 28.2 (2) have a valid United States Social Security number or national practitioner
28.3 identification number;
- 28.4 (3) have no encumbrance on any state license;
- 28.5 (4) be eligible for a compact privilege in any member state in accordance with Article
28.6 IV, (D), (F), (G), and (H);
- 28.7 (5) have paid all fines and completed all requirements resulting from any adverse action
28.8 against any license or compact privilege, and two years have elapsed from the date of such
28.9 completion;
- 28.10 (6) notify the commission that the licensee is seeking the compact privilege within a
28.11 remote state or states;
- 28.12 (7) pay any applicable fees, including any state fee, for the compact privilege;
- 28.13 (8) complete a criminal background check in accordance with Article III, (A)(5). The
28.14 licensee shall be responsible for the payment of any fee associated with the completion of
28.15 a criminal background check;
- 28.16 (9) meet any jurisprudence requirements established by the remote state or states in
28.17 which the licensee is seeking a compact privilege; and
- 28.18 (10) report to the commission adverse action taken by any nonmember state within 30
28.19 days from the date the adverse action is taken.
- 28.20 (B) The compact privilege is valid until the expiration date of the home state license.
28.21 The licensee must comply with the requirements of Article IV, (A), to maintain the compact
28.22 privilege in the remote state.
- 28.23 (C) A licensee providing occupational therapy in a remote state under the compact
28.24 privilege shall function within the laws and regulations of the remote state.
- 28.25 (D) Occupational therapy assistants practicing in a remote state shall be supervised by
28.26 an occupational therapist licensed or holding a compact privilege in that remote state.
- 28.27 (E) A licensee providing occupational therapy in a remote state is subject to that state's
28.28 regulatory authority. A remote state may, in accordance with due process and that state's
28.29 laws, remove a licensee's compact privilege in the remote state for a specific period of time,
28.30 impose fines, or take any other necessary actions to protect the health and safety of its
28.31 citizens. The licensee may be ineligible for a compact privilege in any state until the specific
28.32 time for removal has passed and all fines are paid.

29.1 (F) If a home state license is encumbered, the licensee shall lose the compact privilege
29.2 in any remote state until the following occur:

29.3 (1) the home state license is no longer encumbered; and

29.4 (2) two years have elapsed from the date on which the home state license is no longer
29.5 encumbered in accordance with Article IV, (F)(1).

29.6 (G) Once an encumbered license in the home state is restored to good standing, the
29.7 licensee must meet the requirements of Article IV, (A), to obtain a compact privilege in any
29.8 remote state.

29.9 (H) If a licensee's compact privilege in any remote state is removed, the individual may
29.10 lose the compact privilege in any other remote state until the following occur:

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

29.12 (2) all fines have been paid and all conditions have been met;

29.13 (3) two years have elapsed from the date of completing requirements for Article IV,
29.14 (H)(1) and (2); and

29.15 (4) the compact privileges are reinstated by the commission and the compact data system
29.16 is updated to reflect reinstatement.

29.17 (I) If a licensee's compact privilege in any remote state is removed due to an erroneous
29.18 charge, privileges shall be restored through the compact data system.

29.19 (J) Once the requirements of Article IV, (H), have been met, the licensee must meet the
29.20 requirements in Article IV, (A), to obtain a compact privilege in a remote state.

29.21 ARTICLE V

29.22 OBTAINING A NEW HOME STATE LICENSE BY VIRTUE OF COMPACT PRIVILEGE

29.23 (A) An occupational therapist or occupational therapy assistant may hold a home state
29.24 license, which allows for compact privileges in member states, in only one member state
29.25 at a time.

29.26 (B) If an occupational therapist or occupational therapy assistant changes their primary
29.27 state of residence by moving between two member states:

29.28 (1) the occupational therapist or occupational therapy assistant shall file an application
29.29 for obtaining a new home state license by virtue of a compact privilege, pay all applicable
29.30 fees, and notify the current and new home state in accordance with applicable rules adopted
29.31 by the commission;

(2) upon receipt of an application for obtaining a new home state license by virtue of compact privilege, the new home state shall verify that the occupational therapist or occupational therapy assistant meets the pertinent criteria outlined in Article IV via the data system, without need for primary source verification except for:

(i) an FBI fingerprint-based criminal background check if not previously performed or updated pursuant to applicable rules adopted by the commission in accordance with Public Law 92-544;

(ii) other criminal background checks as required by the new home state; and

(iii) submission of any requisite jurisprudence requirements of the new home state;

(3) the former home state shall convert the former home state license into a compact privilege once the new home state has activated the new home state license in accordance with applicable rules adopted by the commission;

(4) notwithstanding any other provision of this compact, if the occupational therapist or occupational therapy assistant cannot meet the criteria in Article IV, the new home state shall apply its requirements for issuing a new single-state license; and

(5) the occupational therapist or the occupational therapy assistant shall pay all applicable fees to the new home state in order to be issued a new home state license.

(C) If an occupational therapist or occupational therapy assistant changes their primary state of residence by moving from a member state to a nonmember state, or from a nonmember state to a member state, the state criteria shall apply for issuance of a single-state license in the new state.

(D) Nothing in this compact shall interfere with a licensee's ability to hold a single-state license in multiple states; however, for the purposes of this compact, a licensee shall have only one home state license.

(E) Nothing in this compact shall affect the requirements established by a member state for the issuance of a single-state license.

ARTICLE VI

ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

Active duty military personnel, or their spouses, shall designate a home state where the individual has a current license in good standing. The individual may retain the home state designation during the period the service member is on active duty. Subsequent to designating

31.1 a home state, the individual shall only change their home state through application for
31.2 licensure in the new state or through the process described in Article V.

31.3 ARTICLE VII

31.4 ADVERSE ACTIONS

31.5 (A) A home state shall have exclusive power to impose adverse action against an
31.6 occupational therapist's or occupational therapy assistant's license issued by the home state.

31.7 (B) In addition to the other powers conferred by state law, a remote state shall have the
31.8 authority, in accordance with existing state due process law, to:

31.9 (1) take adverse action against an occupational therapist's or occupational therapy
31.10 assistant's compact privilege within that member state; and

31.11 (2) issue subpoenas for both hearings and investigations that require the attendance and
31.12 testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing
31.13 board in a member state for the attendance and testimony of witnesses or the production of
31.14 evidence from another member state shall be enforced in the latter state by any court of
31.15 competent jurisdiction, according to the practice and procedure of that court applicable to
31.16 subpoenas issued in proceedings pending before that court. The issuing authority shall pay
31.17 any witness fees, travel expenses, mileage, and other fees required by the service statutes
31.18 of the state in which the witnesses or evidence are located.

31.19 (C) For purposes of taking adverse action, the home state shall give the same priority
31.20 and effect to reported conduct received from a member state as it would if the conduct had
31.21 occurred within the home state. In so doing, the home state shall apply its own state laws
31.22 to determine appropriate action.

31.23 (D) The home state shall complete any pending investigations of an occupational therapist
31.24 or occupational therapy assistant who changes their primary state of residence during the
31.25 course of the investigations. The home state, where the investigations were initiated, shall
31.26 also have the authority to take appropriate action and shall promptly report the conclusions
31.27 of the investigations to the compact commission data system. The occupational therapy
31.28 compact commission data system administrator shall promptly notify the new home state
31.29 of any adverse actions.

31.30 (E) A member state, if otherwise permitted by state law, may recover from the affected
31.31 occupational therapist or occupational therapy assistant the costs of investigations and
31.32 disposition of cases resulting from any adverse action taken against that occupational
31.33 therapist or occupational therapy assistant.

(F) A member state may take adverse action based on the factual findings of the remote state, provided that the member state follows its own procedures for taking the adverse action.

(G) Joint Investigations:

(1) In addition to the authority granted to a member state by its respective state occupational therapy laws and regulations or other applicable state law, any member state may participate with other member states in joint investigations of licensees.

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

(H) If an adverse action is taken by the home state against an occupational therapist's or occupational therapy assistant's license, the occupational therapist's or occupational therapy assistant's compact privilege in all other member states shall be deactivated until all encumbrances have been removed from the state license. All home state disciplinary orders that impose adverse action against an occupational therapist's or occupational therapy assistant's license shall include a statement that the occupational therapist's or occupational therapy assistant's compact privilege is deactivated in all member states during the pendency of the order.

(I) If a member state takes adverse action, the member state shall promptly notify the administrator of the data system. The administrator of the data system shall promptly notify the home state of any adverse actions by remote states.

(J) Nothing in this compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action.

ARTICLE VIII

ESTABLISHMENT OF THE OCCUPATIONAL THERAPY COMPACT COMMISSION

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

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

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

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

33.2 (B) Membership, Voting, and Meetings:

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

33.5 (2) The delegate shall be either:

33.6 (i) a current member of the licensing board who is an occupational therapist, occupational
33.7 therapy assistant, or public member; or

33.8 (ii) an administrator of the licensing board.

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

33.11 (4) The member state board shall fill any vacancy occurring in the commission within
33.12 90 days.

33.13 (5) Each delegate shall be entitled to one vote with regard to the promulgation of rules
33.14 and creation of bylaws and shall otherwise have an opportunity to participate in the business
33.15 and affairs of the commission. A delegate shall vote in person or by such other means as
33.16 provided in the bylaws. The bylaws may provide for delegates' participation in meetings
33.17 by telephone or other means of communication.

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

33.20 (7) The commission shall establish by rule a term of office for delegates.

33.21 (C) The commission shall have the following powers and duties:

33.22 (1) establish a code of ethics for the commission;

33.23 (2) establish the fiscal year of the commission;

33.24 (3) establish bylaws;

33.25 (4) maintain its financial records in accordance with the bylaws;

33.26 (5) meet and take such actions as are consistent with the provisions of this compact and
33.27 the bylaws;

33.28 (6) promulgate uniform rules to facilitate and coordinate implementation and
33.29 administration of this compact. The rules shall have the force and effect of law and shall
33.30 be binding in all member states;

- 34.1 (7) bring and prosecute legal proceedings or actions in the name of the commission,
34.2 provided that the standing of any state occupational therapy licensing board to sue or be
34.3 sued under applicable law shall not be affected;
- 34.4 (8) purchase and maintain insurance and bonds;
- 34.5 (9) borrow, accept, or contract for services of personnel, including but not limited to
34.6 employees of a member state;
- 34.7 (10) hire employees, elect or appoint officers, fix compensation, define duties, grant
34.8 such individuals appropriate authority to carry out the purposes of the compact, and establish
34.9 the commission's personnel policies and programs relating to conflicts of interest,
34.10 qualifications of personnel, and other related personnel matters;
- 34.11 (11) accept any and all appropriate donations and grants of money, equipment, supplies,
34.12 materials, and services, and receive, utilize, and dispose of the same; provided that at all
34.13 times the commission shall avoid any appearance of impropriety or conflict of interest;
- 34.14 (12) lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold,
34.15 improve, or use any property, real, personal, or mixed; provided that at all times the
34.16 commission shall avoid any appearance of impropriety;
- 34.17 (13) sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of
34.18 any property real, personal, or mixed;
- 34.19 (14) establish a budget and make expenditures;
- 34.20 (15) borrow money;
- 34.21 (16) appoint committees, including standing committees composed of members, state
34.22 regulators, state legislators or their representatives, and consumer representatives, and other
34.23 interested persons as may be designated in this compact and the bylaws;
- 34.24 (17) provide and receive information from, and cooperate with, law enforcement agencies;
- 34.25 (18) establish and elect an executive committee; and
- 34.26 (19) perform other functions as may be necessary or appropriate to achieve the purposes
34.27 of this compact consistent with the state regulation of occupational therapy licensure and
34.28 practice.
- 34.29 (D) The Executive Committee:
- 34.30 (1) The executive committee shall have the power to act on behalf of the commission
34.31 according to the terms of this compact.

- 35.1 (2) The executive committee shall be composed of nine members:
- 35.2 (i) seven voting members who are elected by the commission from the current
- 35.3 membership of the commission;
- 35.4 (ii) one ex-officio, nonvoting member from a recognized national occupational therapy
- 35.5 professional association; and
- 35.6 (iii) one ex-officio, nonvoting member from a recognized national occupational therapy
- 35.7 certification organization.
- 35.8 (3) The ex-officio members will be selected by their respective organizations.
- 35.9 (4) The commission may remove any member of the executive committee as provided
- 35.10 in the bylaws.
- 35.11 (5) The executive committee shall meet at least annually.
- 35.12 (6) The executive committee shall have the following duties and responsibilities:
- 35.13 (i) recommend to the entire commission changes to the rules or bylaws, changes to this
- 35.14 compact legislation, fees paid by compact member states such as annual dues, and any
- 35.15 commission compact fee charged to licensees for the compact privilege;
- 35.16 (ii) ensure compact administration services are appropriately provided, contractual or
- 35.17 otherwise;
- 35.18 (iii) prepare and recommend the budget;
- 35.19 (iv) maintain financial records on behalf of the commission;
- 35.20 (v) monitor compact compliance of member states and provide compliance reports to
- 35.21 the commission;
- 35.22 (vi) establish additional committees as necessary; and
- 35.23 (vii) perform other duties as provided in rules or bylaws.
- 35.24 (E) Meetings of the Commission:
- 35.25 (1) All meetings shall be open to the public, and public notice of meetings shall be given
- 35.26 in the same manner as required under the rulemaking provisions in Article X.
- 35.27 (2) The commission or the executive committee or other committees of the commission
- 35.28 may convene in a closed, nonpublic meeting if the commission or executive committee or
- 35.29 other committees of the commission must discuss:
- 35.30 (i) noncompliance of a member state with its obligations under the compact;

36.1 (ii) the employment, compensation, discipline, or other matters, practices, or procedures
36.2 related to specific employees or other matters related to the commission's internal personnel
36.3 practices and procedures;

36.4 (iii) current, threatened, or reasonably anticipated litigation;

36.5 (iv) negotiation of contracts for the purchase, lease, or sale of goods, services, or real
36.6 estate;

36.7 (v) accusing any person of a crime or formally censuring any person;

36.8 (vi) disclosure of trade secrets or commercial or financial information that is privileged
36.9 or confidential;

36.10 (vii) disclosure of information of a personal nature where disclosure would constitute a
36.11 clearly unwarranted invasion of personal privacy;

36.12 (viii) disclosure of investigative records compiled for law enforcement purposes;

36.13 (ix) disclosure of information related to any investigative reports prepared by or on
36.14 behalf of or for use of the commission or other committee charged with responsibility of
36.15 investigation or determination of compliance issues pursuant to the compact; or

36.16 (x) matters specifically exempted from disclosure by federal or member state statute.

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

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

36.26 (F) Financing of the Commission:

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

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

37.1 (3) The commission may levy on and collect an annual assessment from each member
37.2 state or impose fees on other parties to cover the cost of the operations and activities of the
37.3 commission and its staff, which must be in a total amount sufficient to cover its annual
37.4 budget as approved by the commission each year for which revenue is not provided by other
37.5 sources. The aggregate annual assessment amount shall be allocated based upon a formula
37.6 to be determined by the commission, which shall promulgate a rule binding upon all member
37.7 states.

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

37.11 (5) The commission shall keep accurate accounts of all receipts and disbursements. The
37.12 receipts and disbursements of the commission shall be subject to the audit and accounting
37.13 procedures established under its bylaws. However, all receipts and disbursements of funds
37.14 handled by the commission shall be audited yearly by a certified or licensed public
37.15 accountant, and the report of the audit shall be included in and become part of the annual
37.16 report of the commission.

37.17 (G) Qualified Immunity, Defense, and Indemnification:

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

37.27 (2) The commission shall defend any member, officer, executive director, employee, or
37.28 representative of the commission in any civil action seeking to impose liability arising out
37.29 of any actual or alleged act, error, or omission that occurred within the scope of commission
37.30 employment, duties, or responsibilities, or that the person against whom the claim is made
37.31 had a reasonable basis for believing occurred within the scope of commission employment,
37.32 duties, or responsibilities; provided that nothing herein shall be construed to prohibit that
37.33 person from retaining their own counsel; and provided further, that the actual or alleged

38.1 act, error, or omission did not result from that person's intentional or willful or wanton
38.2 misconduct.

38.3 (3) The commission shall indemnify and hold harmless any member, officer, executive
38.4 director, employee, or representative of the commission for the amount of any settlement
38.5 or judgment obtained against that person arising out of any actual or alleged act, error, or
38.6 omission that occurred within the scope of commission employment, duties, or
38.7 responsibilities, or that such person had a reasonable basis for believing occurred within
38.8 the scope of commission employment, duties, or responsibilities; provided that the actual
38.9 or alleged act, error, or omission did not result from the intentional or willful or wanton
38.10 misconduct of that person.

38.11 (H) Notwithstanding paragraph (G), clause (1), the liability of the executive director,
38.12 employees, or representatives of the interstate commission, acting within the scope of their
38.13 employment or duties, may not exceed the limits of liability set forth under the constitution
38.14 and laws of this state for state officials, employees, and agents. This paragraph expressly
38.15 incorporates section 3.736, and neither expands nor limits the rights and remedies provided
38.16 under that statute.

38.17 (I) Except for a claim alleging a violation of this compact, a claim against the commission,
38.18 its executive director, employees, or representatives alleging a violation of the constitution
38.19 and laws of this state may be brought in any county where the plaintiff resides. Nothing in
38.20 this paragraph creates a private right of action.

38.21 (J) Nothing in this compact shall be construed as a limitation on the liability of any
38.22 licensee for professional malpractice or misconduct, which shall be governed solely by any
38.23 other applicable state laws.

38.24 ARTICLE IX

38.25 DATA SYSTEM

38.26 (A) The commission shall provide for the development, maintenance, and utilization of
38.27 a coordinated database and reporting system containing licensure, adverse action, and
38.28 investigative information on all licensed individuals in member states.

38.29 (B) A member state shall submit a uniform data set to the data system on all individuals
38.30 to whom this compact is applicable, utilizing a unique identifier, as required by the rules
38.31 of the commission, including:

38.32 (1) identifying information;

38.33 (2) licensure data;

- 39.1 (3) adverse actions against a license or compact privilege;
- 39.2 (4) nonconfidential information related to alternative program participation;
- 39.3 (5) any denial of application for licensure and the reason or reasons for such denial;
- 39.4 (6) other information that may facilitate the administration of this compact, as determined
- 39.5 by the rules of the commission; and
- 39.6 (7) current significant investigative information.
- 39.7 (C) Current significant investigative information and other investigative information
- 39.8 pertaining to a licensee in any member state will only be available to other member states.
- 39.9 (D) The commission shall promptly notify all member states of any adverse action taken
- 39.10 against a licensee or an individual applying for a license. Adverse action information
- 39.11 pertaining to a licensee in any member state will be available to any other member state.
- 39.12 (E) Member states contributing information to the data system may designate information
- 39.13 that may not be shared with the public without the express permission of the contributing
- 39.14 state.
- 39.15 (F) Any information submitted to the data system that is subsequently required to be
- 39.16 expunged by the laws of the member state contributing the information shall be removed
- 39.17 from the data system.

ARTICLE X

RULEMAKING

- 39.20 (A) The commission shall exercise its rulemaking powers pursuant to the criteria set
- 39.21 forth in this Article and the rules adopted thereunder. Rules and amendments shall become
- 39.22 binding as of the date specified in each rule or amendment.
- 39.23 (B) The commission shall promulgate reasonable rules in order to effectively and
- 39.24 efficiently achieve the purposes of the compact. Notwithstanding the foregoing, in the event
- 39.25 the commission exercises its rulemaking authority in a manner that is beyond the scope of
- 39.26 the purposes of the compact, or the powers granted hereunder, then such an action by the
- 39.27 commission shall be invalid and have no force and effect.
- 39.28 (C) If a majority of the legislatures of the member states rejects a rule, by enactment of
- 39.29 a statute or resolution in the same manner used to adopt the compact within four years of
- 39.30 the date of adoption of the rule, then such rule shall have no further force and effect in any
- 39.31 member state.

40.1 (D) Rules or amendments to the rules shall be adopted at a regular or special meeting
40.2 of the commission.

40.3 (E) Prior to promulgation and adoption of a final rule or rules by the commission, and
40.4 at least 30 days in advance of the meeting at which the rule will be considered and voted
40.5 upon, the commission shall file a notice of proposed rulemaking:

40.6 (1) on the website of the commission or other publicly accessible platform; and

40.7 (2) on the website of each member state occupational therapy licensing board or other
40.8 publicly accessible platform or the publication in which each state would otherwise publish
40.9 proposed rules.

40.10 (F) The notice of proposed rulemaking shall include:

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

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

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

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

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

40.19 (H) The commission shall grant an opportunity for a public hearing before it adopts a
40.20 rule or amendment if a hearing is requested by:

40.21 (1) at least 25 persons;

40.22 (2) a state or federal governmental subdivision or agency; or

40.23 (3) an association or organization having at least 25 members.

40.24 (I) If a hearing is held on the proposed rule or amendment, the commission shall publish
40.25 the place, time, and date of the scheduled public hearing. If the hearing is held via electronic
40.26 means, the commission shall publish the mechanism for access to the electronic hearing:

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

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

41.1 (3) All hearings will be recorded. A copy of the recording will be made available on
41.2 request.

41.3 (4) Nothing in this Article shall be construed as requiring a separate hearing on each
41.4 rule. Rules may be grouped for the convenience of the commission at hearings required by
41.5 this Article.

41.6 (J) Following the scheduled hearing date, or by the close of business on the scheduled
41.7 hearing date if the hearing was not held, the commission shall consider all written and oral
41.8 comments received.

41.9 (K) If no written notice of intent to attend the public hearing by interested parties is
41.10 received, the commission may proceed with promulgation of the proposed rule without a
41.11 public hearing.

41.12 (L) The commission shall, by majority vote of all members, take final action on the
41.13 proposed rule and shall determine the effective date of the rule, if any, based on the
41.14 rulemaking record and the full text of the rule.

41.15 (M) Upon determination that an emergency exists, the commission may consider and
41.16 adopt an emergency rule without prior notice, opportunity for comment, or hearing; provided
41.17 that the usual rulemaking procedures provided in the compact and in this Article shall be
41.18 retroactively applied to the rule as soon as reasonably possible, in no event later than 90
41.19 days after the effective date of the rule. For the purposes of this provision, an emergency
41.20 rule is one that must be adopted immediately in order to:

41.21 (1) meet an imminent threat to public health, safety, or welfare;

41.22 (2) prevent a loss of commission or member state funds;

41.23 (3) meet a deadline for the promulgation of an administrative rule that is established by
41.24 federal law or rule; or

41.25 (4) protect public health and safety.

41.26 (N) The commission or an authorized committee of the commission may direct revisions
41.27 to a previously adopted rule or amendment for purposes of correcting typographical errors,
41.28 errors in format, errors in consistency, or grammatical errors. Public notice of any revisions
41.29 shall be posted on the website of the commission. The revision shall be subject to challenge
41.30 by any person for a period of 30 days after posting. The revision may be challenged only
41.31 on grounds that the revision results in a material change to a rule. A challenge shall be made
41.32 in writing and delivered to the chair of the commission prior to the end of the notice period.

42.1 If no challenge is made, the revision will take effect without further action. If the revision
42.2 is challenged, the revision may not take effect without the approval of the commission.

42.3 ARTICLE XI

42.4 OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

42.5 (A) Oversight:

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

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

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

42.17 (B) Default, Technical Assistance, and Termination:

42.18 (1) If the commission determines that a member state has defaulted in the performance
42.19 of its obligations or responsibilities under this compact or the promulgated rules, the
42.20 commission shall:

42.21 (i) provide written notice to the defaulting state and other member states of the nature
42.22 of the default, the proposed means of curing the default, or any other action to be taken by
42.23 the commission; and

42.24 (ii) provide remedial training and specific technical assistance regarding the default.

42.25 (2) If a state in default fails to cure the default, the defaulting state may be terminated
42.26 from the compact upon an affirmative vote of a majority of the member states, and all rights,
42.27 privileges, and benefits conferred by this compact may be terminated on the effective date
42.28 of termination. A cure of the default does not relieve the offending state of obligations or
42.29 liabilities incurred during the period of default.

42.30 (3) Termination of membership in the compact shall be imposed only after all other
42.31 means of securing compliance have been exhausted. Notice of intent to suspend or terminate

43.1 shall be given by the commission to the governor, the majority and minority leaders of the
43.2 defaulting state's legislature, and each of the member states.

43.3 (4) A state that has been terminated is responsible for all assessments, obligations, and
43.4 liabilities incurred through the effective date of termination, including obligations that
43.5 extend beyond the effective date of termination.

43.6 (5) The commission shall not bear any costs related to a state that is found to be in default
43.7 or that has been terminated from the compact, unless agreed upon in writing between the
43.8 commission and the defaulting state.

43.9 (6) The defaulting state may appeal the action of the commission by petitioning the
43.10 United States District Court for the District of Columbia or the federal district where the
43.11 commission has its principal offices. The prevailing member shall be awarded all costs of
43.12 such litigation, including reasonable attorney fees.

43.13 (C) Dispute Resolution:

43.14 (1) Upon request by a member state, the commission shall attempt to resolve disputes
43.15 related to the compact that arise among member states and between member and nonmember
43.16 states.

43.17 (2) The commission shall promulgate a rule providing for both mediation and binding
43.18 dispute resolution for disputes as appropriate.

43.19 (D) Enforcement:

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

43.22 (2) By majority vote, the commission may initiate legal action in the United States
43.23 District Court for the District of Columbia or the federal district where the commission has
43.24 its principal offices against a member state in default to enforce compliance with the
43.25 provisions of the compact and its promulgated rules and bylaws. The relief sought may
43.26 include both injunctive relief and damages. In the event that judicial enforcement is necessary,
43.27 the prevailing member shall be awarded all costs of such litigation, including reasonable
43.28 attorney fees.

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

43.31 ARTICLE XII

44.1 DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR
44.2 OCCUPATIONAL THERAPY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL,
44.3 AND AMENDMENT

44.4 (A) The compact shall come into effect on the date on which the compact statute is
44.5 enacted into law in the tenth member state. The provisions, which become effective at that
44.6 time, shall be limited to the powers granted to the commission relating to assembly and the
44.7 promulgation of rules. Thereafter, the commission shall meet and exercise rulemaking
44.8 powers necessary to the implementation and administration of the compact.

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

44.13 (C) Any member state may withdraw from this compact by enacting a statute repealing
44.14 the same:

44.15 (1) A member state's withdrawal shall not take effect until six months after enactment
44.16 of the repealing statute.

44.17 (2) Withdrawal shall not affect the continuing requirement of the withdrawing state's
44.18 occupational therapy licensing board to comply with the investigative and adverse action
44.19 reporting requirements of this compact prior to the effective date of withdrawal.

44.20 (D) Nothing contained in this compact shall be construed to invalidate or prevent any
44.21 occupational therapy licensure agreement or other cooperative arrangement between a
44.22 member state and a nonmember state that does not conflict with the provisions of this
44.23 compact.

44.24 (E) This compact may be amended by the member states. No amendment to this compact
44.25 shall become effective and binding upon any member state until it is enacted into the laws
44.26 of all member states.

44.27 ARTICLE XIII

44.28 CONSTRUCTION AND SEVERABILITY

44.29 This compact shall be liberally construed so as to effectuate the purposes thereof. The
44.30 provisions of this compact shall be severable and if any phrase, clause, sentence, or provision
44.31 of this compact is declared to be contrary to the constitution of any member state or of the
44.32 United States or the applicability thereof to any government, agency, person, or circumstance
44.33 is held invalid, the validity of the remainder of this compact and the applicability thereof

to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any member state, the compact shall remain in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

ARTICLE XIV

BINDING EFFECT OF COMPACT AND OTHER LAWS

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

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

(C) Any laws in a member state in conflict with the compact are superseded to the extent of the conflict.

(D) Any lawful actions of the commission, including all rules and bylaws promulgated by the commission, are binding upon the member states.

(E) All agreements between the commission and the member states are binding in accordance with their terms.

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

ARTICLE 3

PHYSICAL THERAPISTS

Section 1. [148.676] PHYSICAL THERAPY LICENSURE COMPACT.

The physical therapy licensure compact is enacted into law and entered into with all other jurisdictions legally joining in the compact in the form substantially specified in this section.

ARTICLE I

TITLE

This statute shall be known and cited as the physical therapy licensure compact.

ARTICLE II

DEFINITIONS

46.1 As used in this compact, and except as otherwise provided, the following terms have
46.2 the meanings given them.

46.3 (a) "Active duty military" means full-time duty status in the active uniformed service
46.4 of the United States, including members of the National Guard and Reserve on active duty
46.5 orders pursuant to United States Code, title 10, chapters 1209 and 1211.

46.6 (b) "Adverse action" means disciplinary action taken by a physical therapy licensing
46.7 board based upon misconduct, unacceptable performance, or a combination of both.

46.8 (c) "Alternative program" means a nondisciplinary monitoring or practice remediation
46.9 process approved by a physical therapy licensing board. Alternative program includes but
46.10 is not limited to substance abuse issues.

46.11 (d) "Compact privilege" means the authorization granted by a remote state to allow a
46.12 licensee from another member state to practice as a physical therapist or work as a physical
46.13 therapist assistant in the remote state under its laws and rules. The practice of physical
46.14 therapy occurs in the member state where the patient or client is located at the time of the
46.15 patient or client encounter.

46.16 (e) "Continuing competence" means a requirement, as a condition of license renewal,
46.17 to provide evidence of participation in, or completion of, educational and professional
46.18 activities relevant to practice or area of work.

46.19 (f) "Data system" means a repository of information about licensees, including
46.20 examination, licensure, investigative, compact privilege, and adverse action.

46.21 (g) "Encumbered license" means a license that a physical therapy licensing board has
46.22 limited in any way.

46.23 (h) "Executive board" means a group of directors elected or appointed to act on behalf
46.24 of, and within the powers granted to them by, the commission.

46.25 (i) "Home state" means the member state that is the licensee's primary state of residence.

46.26 (j) "Investigative information" means information, records, and documents received or
46.27 generated by a physical therapy licensing board pursuant to an investigation.

46.28 (k) "Jurisprudence requirement" means the assessment of an individual's knowledge of
46.29 the laws and rules governing the practice of physical therapy in a state.

46.30 (l) "Licensee" means an individual who currently holds an authorization from the state
46.31 to practice as a physical therapist or to work as a physical therapist assistant.

46.32 (m) "Member state" means a state that has enacted the compact.

47.1 (n) "Party state" means any member state in which a licensee holds a current license or
47.2 compact privilege or is applying for a license or compact privilege.

47.3 (o) "Physical therapist" means an individual who is licensed by a state to practice physical
47.4 therapy.

47.5 (p) "Physical therapist assistant" means an individual who is licensed or certified by a
47.6 state and who assists the physical therapist in selected components of physical therapy.

47.7 (q) "Physical therapy," "physical therapy practice," or "the practice of physical therapy"
47.8 means the care and services provided by or under the direction and supervision of a licensed
47.9 physical therapist.

47.10 (r) "Physical Therapy Compact Commission" or "commission" means the national
47.11 administrative body whose membership consists of all states that have enacted the compact.

47.12 (s) "Physical therapy licensing board" or "licensing board" means the agency of a state
47.13 that is responsible for the licensing and regulation of physical therapists and physical therapist
47.14 assistants.

47.15 (t) "Remote state" means a member state other than the home state where a licensee is
47.16 exercising or seeking to exercise the compact privilege.

47.17 (u) "Rule" means a regulation, principle, or directive promulgated by the commission
47.18 that has the force of law.

47.19 (v) "State" means any state, commonwealth, district, or territory of the United States
47.20 that regulates the practice of physical therapy.

47.21 ARTICLE III

47.22 STATE PARTICIPATION IN THE COMPACT

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

47.24 (1) participate fully in the commission's data system, including using the commission's
47.25 unique identifier as defined in rules;

47.26 (2) have a mechanism in place for receiving and investigating complaints about licensees;

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

47.29 (4) fully implement a criminal background check requirement, within a time frame
47.30 established by rule, by receiving the results of the Federal Bureau of Investigation record

48.1 search on criminal background checks and use the results in making licensure decisions in
48.2 accordance with paragraph (b);

48.3 (5) comply with the rules of the commission;

48.4 (6) utilize a recognized national examination as a requirement for licensure pursuant to
48.5 the rules of the commission; and

48.6 (7) have continuing competence requirements as a condition for license renewal.

48.7 (b) Upon adoption of this compact, the member state shall have the authority to obtain
48.8 biometric-based information from each physical therapy licensure applicant and submit this
48.9 information to the Federal Bureau of Investigation for a criminal background check in
48.10 accordance with United States Code, title 28, section 534, and United States Code, title 42,
48.11 section 14616.

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

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

48.16 ARTICLE IV

48.17 COMPACT PRIVILEGE

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

48.20 (1) hold a license in the home state;

48.21 (2) have no encumbrance on any state license;

48.22 (3) be eligible for a compact privilege in any member state in accordance with paragraphs
48.23 (d), (g), and (h);

48.24 (4) have not had any adverse action against any license or compact privilege within the
48.25 previous two years;

48.26 (5) notify the commission that the licensee is seeking the compact privilege within a
48.27 remote state or states;

48.28 (6) pay any applicable fees, including any state fee, for the compact privilege;

48.29 (7) meet any jurisprudence requirements established by the remote state or states in
48.30 which the licensee is seeking a compact privilege; and

49.1 (8) report to the commission adverse action taken by any nonmember state within 30
49.2 days from the date the adverse action is taken.

49.3 (b) The compact privilege is valid until the expiration date of the home license. The
49.4 licensee must comply with the requirements of paragraph (a) to maintain the compact
49.5 privilege in the remote state.

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

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

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

49.16 (1) the home state license is no longer encumbered; and

49.17 (2) two years have elapsed from the date of the adverse action.

49.18 (f) Once an encumbered license in the home state is restored to good standing, the
49.19 licensee must meet the requirements of paragraph (a) to obtain a compact privilege in any
49.20 remote state.

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

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

49.24 (2) all fines have been paid; and

49.25 (3) two years have elapsed from the date of the adverse action.

49.26 (h) Once the requirements of paragraph (g) have been met, the licensee must meet the
49.27 requirements in paragraph (a) to obtain a compact privilege in a remote state.

49.28 ARTICLE V

49.29 ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

49.30 A licensee who is active duty military or is the spouse of an individual who is active
49.31 duty military may designate one of the following as the home state:

- 50.1 (1) home of record;
- 50.2 (2) permanent change of station (PCS) state; or
- 50.3 (3) state of current residence if different than the PCS state or home of record.

50.4 ARTICLE VI

50.5 ADVERSE ACTIONS

50.6 (a) A home state shall have exclusive power to impose adverse action against a license

50.7 issued by the home state.

50.8 (b) A home state may take adverse action based on the investigative information of a

50.9 remote state, so long as the home state follows its own procedures for imposing adverse

50.10 action.

50.11 (c) Nothing in this compact shall override a member state's decision that participation

50.12 in an alternative program may be used in lieu of adverse action and that such participation

50.13 shall remain nonpublic if required by the member state's laws. Member states must require

50.14 licensees who enter any alternative programs in lieu of discipline to agree not to practice

50.15 in any other member state during the term of the alternative program without prior

50.16 authorization from such other member state.

50.17 (d) Any member state may investigate actual or alleged violations of the statutes and

50.18 rules authorizing the practice of physical therapy in any other member state in which a

50.19 physical therapist or physical therapist assistant holds a license or compact privilege.

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

50.21 (1) take adverse actions as set forth in article IV, paragraph (d), against a licensee's

50.22 compact privilege in the state;

50.23 (2) issue subpoenas for both hearings and investigations that require the attendance and

50.24 testimony of witnesses and the production of evidence. Subpoenas issued by a physical

50.25 therapy licensing board in a party state for the attendance and testimony of witnesses, or

50.26 the production of evidence from another party state, shall be enforced in the latter state by

50.27 any court of competent jurisdiction, according to the practice and procedure of that court

50.28 applicable to subpoenas issued in proceedings pending before it. The issuing authority shall

50.29 pay any witness fees, travel expenses, mileage, and other fees required by the service statutes

50.30 of the state where the witnesses or evidence are located; and

51.1 (3) if otherwise permitted by state law, recover from the licensee the costs of
51.2 investigations and disposition of cases resulting from any adverse action taken against that
51.3 licensee.

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

51.7 (g) Member states shall share any investigative, litigation, or compliance materials in
51.8 furtherance of any joint or individual investigation initiated under the compact.

51.9 ARTICLE VII

51.10 ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT COMMISSION

51.11 (a) The compact member states hereby create and establish a joint public agency known
51.12 as the Physical Therapy Compact Commission:

51.13 (1) the commission is an instrumentality of the compact states;

51.14 (2) except as provided under paragraph (h), venue is proper and judicial proceedings by
51.15 or against the commission shall be brought solely and exclusively in a court of competent
51.16 jurisdiction where the principal office of the commission is located. The commission may
51.17 waive venue and jurisdictional defenses to the extent it adopts or consents to participate in
51.18 alternative dispute resolution proceedings; and

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

51.20 (b) Membership, voting, and meetings:

51.21 (1) each member state shall have and be limited to one delegate selected by that member
51.22 state's licensing board;

51.23 (2) the delegate shall be a current member of the licensing board who is a physical
51.24 therapist, physical therapist assistant, public member, or the board administrator;

51.25 (3) each delegate shall be entitled to one vote with regard to the promulgation of rules
51.26 and creation of bylaws and shall otherwise have an opportunity to participate in the business
51.27 and affairs of the commission;

51.28 (4) a delegate shall vote in person or by such other means as provided in the bylaws.
51.29 The bylaws may provide for delegates' participation in meetings by telephone or other means
51.30 of communication;

- 52.1 (5) any delegate may be removed or suspended from office as provided by the laws of
52.2 the state from which the delegate is appointed;
- 52.3 (6) the member state board shall fill any vacancy occurring in the commission;
- 52.4 (7) the commission shall meet at least once during each calendar year. Additional
52.5 meetings shall be held as set forth in the bylaws;
- 52.6 (8) all meetings shall be open to the public and public notice of meetings shall be given
52.7 in the same manner as required under the rulemaking provisions in article IX;
- 52.8 (9) the commission or the executive board or other committees of the commission may
52.9 convene in a closed, nonpublic meeting if the commission or executive board or other
52.10 committees of the commission must discuss:
- 52.11 (i) noncompliance of a member state with its obligations under the compact;
- 52.12 (ii) the employment, compensation, discipline, or other matters, practices, or procedures
52.13 related to specific employees or other matters related to the commission's internal personnel
52.14 practices and procedures;
- 52.15 (iii) current, threatened, or reasonably anticipated litigation;
- 52.16 (iv) negotiation of contracts for the purchase, lease, or sale of goods, services, or real
52.17 estate;
- 52.18 (v) accusing any person of a crime or formally censuring any person;
- 52.19 (vi) disclosure of trade secrets or commercial or financial information that is privileged
52.20 or confidential;
- 52.21 (vii) disclosure of information of a personal nature where disclosure would constitute a
52.22 clearly unwarranted invasion of personal privacy;
- 52.23 (viii) disclosure of investigative records compiled for law enforcement purposes;
- 52.24 (ix) disclosure of information related to any investigative reports prepared by or on
52.25 behalf of or for use of the commission or other committee charged with responsibility of
52.26 investigation or determination of compliance issues pursuant to the compact; or
- 52.27 (x) matters specifically exempted from disclosure by federal or member state statute;
- 52.28 (10) if a meeting, or portion of a meeting, is closed pursuant to this provision, the
52.29 commission's legal counsel or designee shall certify that the meeting may be closed and
52.30 shall reference each relevant exempting provision; and

53.1 (11) the commission shall keep minutes that fully and clearly describe all matters
53.2 discussed in a meeting and shall provide a full and accurate summary of actions taken and
53.3 the reasons therefore, including a description of the views expressed. All documents
53.4 considered in connection with an action shall be identified in such minutes. All minutes and
53.5 documents of a closed meeting shall remain under seal, subject to release by a majority vote
53.6 of the commission or order of a court of competent jurisdiction.

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

53.8 (1) establish the fiscal year of the commission;

53.9 (2) establish bylaws;

53.10 (3) maintain its financial records in accordance with the bylaws;

53.11 (4) meet and take such actions as are consistent with the provisions of this compact and
53.12 the bylaws;

53.13 (5) promulgate uniform rules to facilitate and coordinate implementation and
53.14 administration of this compact. The rules shall have the force and effect of law and shall
53.15 be binding in all member states;

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

53.19 (7) purchase and maintain insurance and bonds;

53.20 (8) borrow, accept, or contract for services of personnel, including but not limited to
53.21 employees of a member state;

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

53.26 (10) accept any and all appropriate donations and grants of money, equipment, supplies,
53.27 materials, and services and receive, utilize, and dispose of the same, provided that at all
53.28 times the commission shall avoid any appearance of impropriety or conflict of interest;

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

- 54.1 (12) sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of
54.2 any property real, personal, or mixed;
- 54.3 (13) establish a budget and make expenditures;
- 54.4 (14) borrow money;
- 54.5 (15) appoint committees, including standing committees composed of members, state
54.6 regulators, state legislators or their representatives, consumer representatives, and such
54.7 other interested persons as may be designated in this compact and the bylaws;
- 54.8 (16) provide and receive information from, and cooperate with, law enforcement agencies;
- 54.9 (17) establish and elect an executive board; and
- 54.10 (18) perform such other functions as may be necessary or appropriate to achieve the
54.11 purposes of this compact consistent with the state regulation of physical therapy licensure
54.12 and practice.
- 54.13 (d) The executive board:
- 54.14 (1) the executive board shall have the power to act on behalf of the commission according
54.15 to the terms of this compact;
- 54.16 (2) the executive board shall be composed of nine members as follows:
- 54.17 (i) seven voting members who are elected by the commission from the current
54.18 membership of the commission;
- 54.19 (ii) one ex officio, nonvoting member from the recognized national physical therapy
54.20 professional association; and
- 54.21 (iii) one ex officio, nonvoting member from the recognized membership organization
54.22 of the physical therapy licensing boards;
- 54.23 (3) the ex officio members must be selected by their respective organizations;
- 54.24 (4) the commission may remove any member of the executive board as provided in the
54.25 bylaws;
- 54.26 (5) the executive board shall meet at least annually; and
- 54.27 (6) the executive board shall have the following duties and responsibilities:
- 54.28 (i) recommend to the entire commission changes to the rules or bylaws, changes to this
54.29 compact legislation, fees paid by compact member states such as annual dues, and any
54.30 commission compact fee charged to licensees for the compact privilege;

55.1 (ii) ensure compact administration services are appropriately provided, contractual or
55.2 otherwise;

55.3 (iii) prepare and recommend the budget;

55.4 (iv) maintain financial records on behalf of the commission;

55.5 (v) monitor compact compliance of member states and provide compliance reports to
55.6 the commission;

55.7 (vi) establish additional committees as necessary; and

55.8 (vii) other duties as provided in rules or bylaws.

55.9 (e) Financing of the commission:

55.10 (1) the commission shall pay, or provide for the payment of, the reasonable expenses of
55.11 the commission's establishment, organization, and ongoing activities;

55.12 (2) the commission may accept any and all appropriate revenue sources, donations, and
55.13 grants of money, equipment, supplies, materials, and services;

55.14 (3) the commission may levy on and collect an annual assessment from each member
55.15 state or impose fees on other parties to cover the cost of the operations and activities of the
55.16 commission and the commission's staff, which must be in a total amount sufficient to cover
55.17 its annual budget as approved each year for which revenue is not provided by other sources.
55.18 The aggregate annual assessment amount shall be allocated based upon a formula to be
55.19 determined by the commission, which shall promulgate a rule binding upon all member
55.20 states;

55.21 (4) the commission shall not incur obligations of any kind prior to securing the funds
55.22 adequate to meet the same; nor shall the commission pledge the credit of any of the member
55.23 states, except by and with the authority of the member state; and

55.24 (5) the commission shall keep accurate accounts of all receipts and disbursements. The
55.25 receipts and disbursements of the commission shall be subject to the audit and accounting
55.26 procedures established under the commission's bylaws. However, all receipts and
55.27 disbursements of funds handled by the commission shall be audited yearly by a certified or
55.28 licensed public accountant and the report of the audit shall be included in and become part
55.29 of the annual report of the commission.

55.30 (f) Qualified immunity, defense, and indemnification:

55.31 (1) the members, officers, executive director, employees, and representatives of the
55.32 commission shall be immune from suit and liability, either personally or in their official

capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities, provided that nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person;

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

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

(g) Notwithstanding paragraph (f), clause (1), the liability of the executive director, employees, or representatives of the interstate commission, acting within the scope of their employment or duties, may not exceed the limits of liability set forth under the constitution and laws of this state for state officials, employees, and agents. This paragraph expressly incorporates section 3.736, and neither expands nor limits the rights and remedies provided under that statute.

(h) Except for a claim alleging a violation of this compact, a claim against the commission, its executive director, employees, or representatives alleging a violation of the constitution and laws of this state may be brought in any county where the plaintiff resides. Nothing in this paragraph creates a private right of action.

(i) Nothing in this compact shall be construed as a limitation on the liability of any licensee for professional malpractice or misconduct, which shall be governed solely by any other applicable state laws.

ARTICLE VIII

DATA SYSTEM

(a) The commission shall provide for the development, maintenance, and utilization of a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in member states.

(b) Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system on all individuals to whom this compact is applicable as required by the rules of the commission, including:

(1) identifying information;

(2) licensure data;

(3) adverse actions against a license or compact privilege;

(4) nonconfidential information related to alternative program participation;

(5) any denial of application for licensure and the reason or reasons for the denial; and

(6) other information that may facilitate the administration of this compact, as determined by the rules of the commission.

(c) Investigative information pertaining to a licensee in any member state will only be available to other party states.

(d) The commission shall promptly notify all member states of any adverse action taken against a licensee or an individual applying for a license. Adverse action information pertaining to a licensee in any member state will be available to any other member state.

(e) Member states contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.

(f) Any information submitted to the data system that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the data system.

ARTICLE IX

RULEMAKING

58.1 (a) The commission shall exercise its rulemaking powers pursuant to the criteria set
58.2 forth in this article and the rules adopted thereunder. Rules and amendments shall become
58.3 binding as of the date specified in each rule or amendment.

58.4 (b) If a majority of the legislatures of the member states rejects a rule, by enactment of
58.5 a statute or resolution in the same manner used to adopt the compact within four years of
58.6 the date of adoption of the rule, then such rule shall have no further force and effect in any
58.7 member state.

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

58.10 (d) Prior to promulgation and adoption of a final rule or rules by the commission and at
58.11 least 30 days in advance of the meeting at which the rule will be considered and voted upon,
58.12 the commission shall file a notice of proposed rulemaking:

58.13 (1) on the website of the commission or other publicly accessible platform; and

58.14 (2) on the website of each member state physical therapy licensing board or other publicly
58.15 accessible platform or the publication in which each state would otherwise publish proposed
58.16 rules.

58.17 (e) The notice of proposed rulemaking shall include:

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

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

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

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

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

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

58.28 (1) at least 25 persons;

58.29 (2) a state or federal governmental subdivision or agency; or

58.30 (3) an association having at least 25 members.

(h) If a hearing is held on the proposed rule or amendment, the commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the commission shall publish the mechanism for access to the electronic hearing:

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

(2) hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing;

(3) all hearings will be recorded. A copy of the recording will be made available on request; and

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

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

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

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

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

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

(2) prevent a loss of commission or member state funds;

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

60.1 (4) protect public health and safety.

60.2 (m) The commission or an authorized committee of the commission may direct revisions
60.3 to a previously adopted rule or amendment for purposes of correcting typographical errors,
60.4 errors in format, errors in consistency, or grammatical errors. Public notice of any revisions
60.5 shall be posted on the website of the commission. The revision shall be subject to challenge
60.6 by any person for a period of 30 days after posting. The revision may be challenged only
60.7 on grounds that the revision results in a material change to a rule. A challenge shall be made
60.8 in writing and delivered to the chair of the commission prior to the end of the notice period.
60.9 If no challenge is made, the revision will take effect without further action. If the revision
60.10 is challenged, the revision may not take effect without the approval of the commission.

60.11 ARTICLE X

60.12 OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

60.13 (a) Oversight:

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

60.18 (2) all courts shall take judicial notice of the compact and the rules in any judicial or
60.19 administrative proceeding in a member state pertaining to the subject matter of this compact
60.20 which may affect the powers, responsibilities, or actions of the commission; and

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

60.25 (b) Default, technical assistance, and termination:

60.26 (1) if the commission determines that a member state has defaulted in the performance
60.27 of its obligations or responsibilities under this compact or the promulgated rules, the
60.28 commission shall:

60.29 (i) provide written notice to the defaulting state and other member states of the nature
60.30 of the default, the proposed means of curing the default, or any other action to be taken by
60.31 the commission; and

60.32 (ii) provide remedial training and specific technical assistance regarding the default;

61.1 (2) if a state in default fails to cure the default, the defaulting state may be terminated
61.2 from the compact upon an affirmative vote of a majority of the member states, and all rights,
61.3 privileges, and benefits conferred by this compact may be terminated on the effective date
61.4 of termination. A cure of the default does not relieve the offending state of obligations or
61.5 liabilities incurred during the period of default;

61.6 (3) termination of membership in the compact shall be imposed only after all other means
61.7 of securing compliance have been exhausted. Notice of intent to suspend or terminate shall
61.8 be given by the commission to the governor, the majority and minority leaders of the
61.9 defaulting state's legislature, and each of the member states;

61.10 (4) a state that has been terminated is responsible for all assessments, obligations, and
61.11 liabilities incurred through the effective date of termination, including obligations that
61.12 extend beyond the effective date of termination;

61.13 (5) the commission shall not bear any costs related to a state that is found to be in default
61.14 or that has been terminated from the compact, unless agreed upon in writing between the
61.15 commission and the defaulting state; and

61.16 (6) the defaulting state may appeal the action of the commission by petitioning the United
61.17 States District Court for the District of Columbia or the federal district where the commission
61.18 has its principal offices. The prevailing member shall be awarded all costs of such litigation,
61.19 including reasonable attorney fees.

61.20 (c) Dispute resolution:

61.21 (1) upon request by a member state, the commission shall attempt to resolve disputes
61.22 related to the compact that arise among member states and between member and nonmember
61.23 states; and

61.24 (2) the commission shall promulgate a rule providing for both mediation and binding
61.25 dispute resolution for disputes as appropriate.

61.26 (d) Enforcement:

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

61.29 (2) by majority vote, the commission may initiate legal action in the United States District
61.30 Court for the District of Columbia or the federal district where the commission has its
61.31 principal offices against a member state in default to enforce compliance with the provisions
61.32 of the compact and its promulgated rules and bylaws. The relief sought may include both
61.33 injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing

62.1 member shall be awarded all costs of such litigation, including reasonable attorney fees;
62.2 and

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

62.5 ARTICLE XI

62.6 DATE OF IMPLEMENTATION OF THE INTERSTATE COMPACT FOR PHYSICAL
62.7 THERAPY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND
62.8 AMENDMENTS

62.9 (a) The compact shall come into effect on the date on which the compact statute is
62.10 enacted into law in the tenth member state. The provisions, which become effective at that
62.11 time, shall be limited to the powers granted to the commission relating to assembly and the
62.12 promulgation of rules. Thereafter, the commission shall meet and exercise rulemaking
62.13 powers necessary to the implementation and administration of the compact.

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

62.18 (c) Any member state may withdraw from this compact by enacting a statute repealing
62.19 the same:

62.20 (1) a member state's withdrawal shall not take effect until six months after enactment
62.21 of the repealing statute; and

62.22 (2) withdrawal shall not affect the continuing requirement of the withdrawing state's
62.23 physical therapy licensing board to comply with the investigative and adverse action reporting
62.24 requirements of this compact prior to the effective date of withdrawal.

62.25 (d) Nothing contained in this compact shall be construed to invalidate or prevent any
62.26 physical therapy licensure agreement or other cooperative arrangement between a member
62.27 state and a nonmember state that does not conflict with the provisions of this compact.

62.28 (e) This compact may be amended by the member states. No amendment to this compact
62.29 shall become effective and binding upon any member state until it is enacted into the laws
62.30 of all member states.

62.31 ARTICLE XII

62.32 CONSTRUCTION AND SEVERABILITY

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

EFFECTIVE DATE. This section is effective the day following final enactment. The Board of Physical Therapy must publish the effective date of the compact in the State Register and on the board's website.

ARTICLE 4

PROFESSIONAL COUNSELORS

Section 1. [148B.75] LICENSED PROFESSIONAL COUNSELOR INTERSTATE COMPACT.

The licensed professional counselor interstate compact is enacted into law and entered into with all other jurisdictions legally joining in it, in the form substantially specified in this section.

ARTICLE I

TITLE

This statute shall be known and cited as the professional counselors licensure compact.

ARTICLE II

DEFINITIONS

(a) As used in this compact, and except as otherwise provided, the following definitions shall apply.

(b) "Active duty military" means full-time duty status in the active uniformed service of the United States, including members of the national guard and reserve on active duty orders pursuant to United States Code, title 10, chapters 1209 and 1211.

(c) "Adverse action" means any administrative, civil, equitable, or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against

64.1 a licensed professional counselor, including actions against an individual's license or privilege
64.2 to practice such as revocation, suspension, probation, monitoring of the licensee, limitation
64.3 on the licensee's practice, or any other encumbrance on licensure affecting a licensed
64.4 professional counselor's authorization to practice, including issuance of a cease and desist
64.5 action.

64.6 (d) "Alternative program" means a non-disciplinary monitoring or practice remediation
64.7 process approved by a professional counseling licensing board to address impaired
64.8 practitioners.

64.9 (e) "Continuing competence" and "continuing education" means a requirement, as a
64.10 condition of license renewal, to provide evidence of participation in, or completion of,
64.11 educational and professional activities relevant to practice or area of work.

64.12 (f) "Counseling compact commission" or "commission" means the national administrative
64.13 body whose membership consists of all states that have enacted the compact.

64.14 (g) "Current significant investigative information" means:

64.15 (1) investigative information that a licensing board, after a preliminary inquiry that
64.16 includes notification and an opportunity for the licensed professional counselor to respond,
64.17 if required by state law, has reason to believe is not groundless and, if proved true, would
64.18 indicate more than a minor infraction; or

64.19 (2) investigative information that indicates that the licensed professional counselor
64.20 represents an immediate threat to public health and safety regardless of whether the licensed
64.21 professional counselor has been notified and had an opportunity to respond.

64.22 (h) "Data system" means a repository of information about licensees, including but not
64.23 limited to continuing education, examination, licensure, investigative, privilege to practice,
64.24 and adverse action information.

64.25 (i) "Encumbered license" means a license in which an adverse action restricts the practice
64.26 of licensed professional counseling by the licensee and said adverse action has been reported
64.27 to the National Practitioners Data Bank (NPDB).

64.28 (j) "Encumbrance" means a revocation or suspension of, or any limitation on, the full
64.29 and unrestricted practice of licensed professional counseling by a licensing board.

64.30 (k) "Executive committee" means a group of directors elected or appointed to act on
64.31 behalf of, and within the powers granted to them by, the commission.

64.32 (l) "Home state" means the member state that is the licensee's primary state of residence.

65.1 (m) "Impaired practitioner" means an individual who has a condition that may impair
65.2 their ability to practice as a licensed professional counselor without some type of intervention
65.3 and may include but is not limited to alcohol and drug dependence, mental health impairment,
65.4 and neurological or physical impairment.

65.5 (n) "Investigative information" means information, records, and documents received or
65.6 generated by a professional counseling licensing board pursuant to an investigation.

65.7 (o) "Jurisprudence requirement," if required by a member state, means the assessment
65.8 of an individual's knowledge of the laws and rules governing the practice of professional
65.9 counseling in a state.

65.10 (p) "Licensed professional counselor" means a counselor licensed by a member state,
65.11 regardless of the title used by that state, to independently assess, diagnose, and treat
65.12 behavioral health conditions.

65.13 (q) "Licensee" means an individual who currently holds an authorization from the state
65.14 to practice as a licensed professional counselor.

65.15 (r) "Licensing board" means the agency of a state, or equivalent, that is responsible for
65.16 the licensing and regulation of licensed professional counselors.

65.17 (s) "Member state" means a state that has enacted the compact.

65.18 (t) "Privilege to practice" means a legal authorization, which is equivalent to a license,
65.19 permitting the practice of professional counseling in a remote state.

65.20 (u) "Professional counseling" means the assessment, diagnosis, and treatment of
65.21 behavioral health conditions by a licensed professional counselor.

65.22 (v) "Remote state" means a member state other than the home state, where a licensee is
65.23 exercising or seeking to exercise the privilege to practice.

65.24 (w) "Rule" means a regulation promulgated by the commission that has the force of law.

65.25 (x) "Single state license" means a licensed professional counselor license issued by a
65.26 member state that authorizes practice only within the issuing state and does not include a
65.27 privilege to practice in any other member state.

65.28 (y) "State" means any state, commonwealth, district, or territory of the United States
65.29 that regulates the practice of professional counseling.

65.30 (z) "Telehealth" means the application of telecommunication technology to deliver
65.31 professional counseling services remotely to assess, diagnose, and treat behavioral health
65.32 conditions.

66.1 (aa) "Unencumbered license" means a license that authorizes a licensed professional
66.2 counselor to engage in the full and unrestricted practice of professional counseling.

66.3 ARTICLE III

66.4 STATE PARTICIPATION IN THE COMPACT

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

66.6 (1) license and regulate licensed professional counselors;

66.7 (2) require licensees to pass a nationally recognized exam approved by the commission;

66.8 (3) require licensees to have a 60 semester-hour or 90 quarter-hour master's degree in
66.9 counseling or 60 semester-hours or 90 quarter-hours of graduate coursework including the
66.10 following topic areas:

66.11 (i) professional counseling orientation and ethical practice;

66.12 (ii) social and cultural diversity;

66.13 (iii) human growth and development;

66.14 (iv) career development;

66.15 (v) counseling and helping relationships;

66.16 (vi) group counseling and group work;

66.17 (vii) diagnosis and treatment; assessment and testing;

66.18 (viii) research and program evaluation; and

66.19 (ix) other areas as determined by the commission;

66.20 (4) require licensees to complete a supervised postgraduate professional experience as
66.21 defined by the commission; and

66.22 (5) have a mechanism in place for receiving and investigating complaints about licensees.

66.23 (b) A member state shall:

66.24 (1) participate fully in the commission's data system, including using the commission's
66.25 unique identifier as defined in rules;

66.26 (2) notify the commission, in compliance with the terms of the compact and rules, of
66.27 any adverse action or the availability of investigative information regarding a licensee;

66.28 (3) implement or utilize procedures for considering the criminal history records of
66.29 applicants for an initial privilege to practice. These procedures shall include the submission

of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records;

(i) a member state must fully implement a criminal background check requirement, within a timeframe established by rule, by receiving the results of the Federal Bureau of Investigation record search and shall use the results in making licensure decisions; and

(ii) communication between a member state, the commission, and among member states regarding the verification of eligibility for licensure through the compact shall not include any information received from the Federal Bureau of Investigation relating to a federal criminal records check performed by a member state under Public Law 92-544;

(4) comply with the rules of the commission;

(5) require an applicant to obtain or retain a license in the home state and meet the home state's qualifications for licensure or renewal of licensure, as well as all other applicable state laws;

(6) grant the privilege to practice to a licensee holding a valid unencumbered license in another member state in accordance with the terms of the compact and rules; and

(7) provide for the attendance of the state's commissioner to the counseling compact commission meetings.

(c) Member states may charge a fee for granting the privilege to practice.

(d) Individuals not residing in a member state shall continue to be able to apply for a member state's single state license as provided under the laws of each member state. However, the single state license granted to these individuals shall not be recognized as granting a privilege to practice professional counseling in any other member state.

(e) Nothing in this compact shall affect the requirements established by a member state for the issuance of a single state license.

(f) A license issued to a licensed professional counselor by a home state to a resident in that state shall be recognized by each member state as authorizing a licensed professional counselor to practice professional counseling, under a privilege to practice, in each member state.

ARTICLE IV

PRIVILEGE TO PRACTICE

68.1 (a) To exercise the privilege to practice under the terms and provisions of the compact,
68.2 the licensee shall:

68.3 (1) hold a license in the home state;

68.4 (2) have a valid United States Social Security number or national practitioner identifier;

68.5 (3) be eligible for a privilege to practice in any member state in accordance with this
68.6 article, paragraphs (d), (g), and (h);

68.7 (4) have not had any encumbrance or restriction against any license or privilege to
68.8 practice within the previous two years;

68.9 (5) notify the commission that the licensee is seeking the privilege to practice within a
68.10 remote state(s);

68.11 (6) pay any applicable fees, including any state fee, for the privilege to practice;

68.12 (7) meet any continuing competence or education requirements established by the home
68.13 state;

68.14 (8) meet any jurisprudence requirements established by the remote state in which the
68.15 licensee is seeking a privilege to practice; and

68.16 (9) report to the commission any adverse action, encumbrance, or restriction on license
68.17 taken by any nonmember state within 30 days from the date the action is taken.

68.18 (b) The privilege to practice is valid until the expiration date of the home state license.
68.19 The licensee must comply with the requirements of this article, paragraph (a), to maintain
68.20 the privilege to practice in the remote state.

68.21 (c) A licensee providing professional counseling in a remote state under the privilege
68.22 to practice shall adhere to the laws and regulations of the remote state.

68.23 (d) A licensee providing professional counseling services in a remote state is subject to
68.24 that state's regulatory authority. A remote state may, in accordance with due process and
68.25 that state's laws, remove a licensee's privilege to practice in the remote state for a specific
68.26 period of time, impose fines, or take any other necessary actions to protect the health and
68.27 safety of its citizens. The licensee may be ineligible for a privilege to practice in any member
68.28 state until the specific time for removal has passed and all fines are paid.

68.29 (e) If a home state license is encumbered, the licensee shall lose the privilege to practice
68.30 in any remote state until the following occur:

68.31 (1) the home state license is no longer encumbered; and

69.1 (2) have not had any encumbrance or restriction against any license or privilege to
69.2 practice within the previous two years.

69.3 (f) Once an encumbered license in the home state is restored to good standing, the
69.4 licensee must meet the requirements of this article, paragraph (a), to obtain a privilege to
69.5 practice in any remote state.

69.6 (g) If a licensee's privilege to practice in any remote state is removed, the individual
69.7 may lose the privilege to practice in all other remote states until the following occur:

69.8 (1) the specific period of time for which the privilege to practice was removed has ended;

69.9 (2) all fines have been paid; and

69.10 (3) have not had any encumbrance or restriction against any license or privilege to
69.11 practice within the previous two years.

69.12 (h) Once the requirements of this article, paragraph (g), have been met, the licensee must
69.13 meet the requirements in this article, paragraph (a), to obtain a privilege to practice in a
69.14 remote state.

69.15 ARTICLE V

69.16 OBTAINING A NEW HOME STATE LICENSE BASED ON A PRIVILEGE TO
69.17 PRACTICE

69.18 (a) A licensed professional counselor may hold a home state license, which allows for
69.19 a privilege to practice in other member states, in only one member state at a time.

69.20 (b) If a licensed professional counselor changes primary state of residence by moving
69.21 between two member states:

69.22 (1) the licensed professional counselor shall file an application for obtaining a new home
69.23 state license based on a privilege to practice, pay all applicable fees, and notify the current
69.24 and new home state in accordance with applicable rules adopted by the commission;

69.25 (2) upon receipt of an application for obtaining a new home state license by virtue of a
69.26 privilege to practice, the new home state shall verify that the licensed professional counselor
69.27 meets the pertinent criteria outlined in article IV via the data system, without need for
69.28 primary source verification, except for:

69.29 (i) a Federal Bureau of Investigation fingerprint-based criminal background check if not
69.30 previously performed or updated pursuant to applicable rules adopted by the commission
69.31 in accordance with Public Law 92-544;

70.1 (ii) other criminal background checks as required by the new home state; and

70.2 (iii) completion of any requisite jurisprudence requirements of the new home state;

70.3 (3) the former home state shall convert the former home state license into a privilege to
70.4 practice once the new home state has activated the new home state license in accordance
70.5 with applicable rules adopted by the commission;

70.6 (4) notwithstanding any other provision of this compact, if the licensed professional
70.7 counselor cannot meet the criteria in article VI, the new home state may apply its
70.8 requirements for issuing a new single state license; and

70.9 (5) the licensed professional counselor shall pay all applicable fees to the new home
70.10 state in order to be issued a new home state license.

70.11 (c) If a licensed professional counselor changes primary state of residence by moving
70.12 from a member state to a nonmember state, or from a nonmember state to a member state,
70.13 the state criteria shall apply for issuance of a single state license in the new state.

70.14 (d) Nothing in this compact shall interfere with a licensee's ability to hold a single state
70.15 license in multiple states, however, for the purposes of this compact, a licensee shall have
70.16 only one home state license.

70.17 (e) Nothing in this compact shall affect the requirements established by a member state
70.18 for the issuance of a single state license.

70.19 ARTICLE VI

70.20 ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

70.21 Active duty military personnel, or their spouse, shall designate a home state where the
70.22 individual has a current license in good standing. The individual may retain the home state
70.23 designation during the period the service member is on active duty. Subsequent to designating
70.24 a home state, the individual shall only change their home state through application for
70.25 licensure in the new state or through the process outlined in article V.

70.26 ARTICLE VII

70.27 COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

70.28 (a) Member states shall recognize the right of a licensed professional counselor, licensed
70.29 by a home state in accordance with article III and under rules promulgated by the commission,
70.30 to practice professional counseling in any member state via telehealth under a privilege to
70.31 practice as provided in the compact and rules promulgated by the commission.

71.1 (b) A licensee providing professional counseling services in a remote state under the
71.2 privilege to practice shall adhere to the laws and regulations of the remote state.

71.3 ARTICLE VIII

71.4 ADVERSE ACTIONS

71.5 (a) In addition to the other powers conferred by state law, a remote state shall have the
71.6 authority, in accordance with existing state due process law, to:

71.7 (1) take adverse action against a licensed professional counselor's privilege to practice
71.8 within that member state; and

71.9 (2) issue subpoenas for both hearings and investigations that require the attendance and
71.10 testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing
71.11 board in a member state for the attendance and testimony of witnesses or the production of
71.12 evidence from another member state shall be enforced in the latter state by any court of
71.13 competent jurisdiction according to the practice and procedure of that court applicable to
71.14 subpoenas issued in proceedings pending before it. The issuing authority shall pay any
71.15 witness fees, travel expenses, mileage, and other fees required by the service statutes of the
71.16 state in which the witnesses or evidence are located.

71.17 (b) Only the home state shall have the power to take adverse action against a licensed
71.18 professional counselor's license issued by the home state.

71.19 (c) For purposes of taking adverse action, the home state shall give the same priority
71.20 and effect to reported conduct received from a member state as it would if the conduct had
71.21 occurred within the home state. In so doing, the home state shall apply its own state laws
71.22 to determine appropriate action.

71.23 (d) The home state shall complete any pending investigations of a licensed professional
71.24 counselor who changes primary state of residence during the course of the investigations.
71.25 The home state shall also have the authority to take appropriate action and shall promptly
71.26 report the conclusions of the investigations to the administrator of the data system. The
71.27 administrator of the coordinated licensure information system shall promptly notify the new
71.28 home state of any adverse actions.

71.29 (e) A member state, if otherwise permitted by state law, may recover from the affected
71.30 licensed professional counselor the costs of investigations and dispositions of cases resulting
71.31 from any adverse action taken against that licensed professional counselor.

72.1 (f) A member state may take adverse action based on the factual findings of the remote
72.2 state, provided that the member state follows its own procedures for taking the adverse
72.3 action.

72.4 (g) Joint investigations:

72.5 (1) in addition to the authority granted to a member state by its respective professional
72.6 counseling practice act or other applicable state law, any member state may participate with
72.7 other member states in joint investigations of licensees; and

72.8 (2) member states shall share any investigative, litigation, or compliance materials in
72.9 furtherance of any joint or individual investigation initiated under the compact.

72.10 (h) If adverse action is taken by the home state against the license of a licensed
72.11 professional counselor, the licensed professional counselor's privilege to practice in all other
72.12 member states shall be deactivated until all encumbrances have been removed from the
72.13 state license. All home state disciplinary orders that impose adverse action against the license
72.14 of a licensed professional counselor shall include a statement that the licensed professional
72.15 counselor's privilege to practice is deactivated in all member states during the pendency of
72.16 the order.

72.17 (i) If a member state takes adverse action, it shall promptly notify the administrator of
72.18 the data system. The administrator of the data system shall promptly notify the home state
72.19 of any adverse actions by remote states.

72.20 (j) Nothing in this compact shall override a member state's decision that participation
72.21 in an alternative program may be used in lieu of adverse action.

72.22 ARTICLE IX

72.23 ESTABLISHMENT OF COUNSELING COMPACT COMMISSION

72.24 (a) The compact member states hereby create and establish a joint public agency known
72.25 as the counseling compact commission:

72.26 (1) the commission is an instrumentality of the compact states;

72.27 (2) except as provided under paragraph (i), venue is proper and judicial proceedings by
72.28 or against the commission shall be brought solely and exclusively in a court of competent
72.29 jurisdiction where the principal office of the commission is located. The commission may
72.30 waive venue and jurisdictional defenses to the extent it adopts or consents to participate in
72.31 alternative dispute resolution proceedings; and

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

- 73.1 (b) Membership, voting, and meetings:
- 73.2 (1) each member state shall have and be limited to one delegate selected by that member
- 73.3 state's licensing board;
- 73.4 (2) the delegate shall be either:
- 73.5 (i) a current member of the licensing board at the time of appointment who is a licensed
- 73.6 professional counselor or public member; or
- 73.7 (ii) an administrator of the licensing board;
- 73.8 (3) any delegate may be removed or suspended from office as provided by the law of
- 73.9 the state from which the delegate is appointed;
- 73.10 (4) the member state licensing board shall fill any vacancy occurring on the commission
- 73.11 within 60 days;
- 73.12 (5) each delegate shall be entitled to one vote with regard to the promulgation of rules
- 73.13 and creation of bylaws and shall otherwise have an opportunity to participate in the business
- 73.14 and affairs of the commission;
- 73.15 (6) a delegate shall vote in person or by such other means as provided in the bylaws.
- 73.16 The bylaws may provide for delegates' participation in meetings by telephone or other means
- 73.17 of communication;
- 73.18 (7) the commission shall meet at least once during each calendar year. Additional
- 73.19 meetings shall be held as set forth in the bylaws; and
- 73.20 (8) the commission shall by rule establish a term of office for delegates and may by rule
- 73.21 establish term limits.
- 73.22 (c) The commission shall have the following powers and duties:
- 73.23 (1) establish the fiscal year of the commission;
- 73.24 (2) establish bylaws;
- 73.25 (3) maintain its financial records in accordance with the bylaws;
- 73.26 (4) meet and take such actions as are consistent with the provisions of this compact and
- 73.27 the bylaws;
- 73.28 (5) promulgate rules which shall be binding to the extent and in the manner provided
- 73.29 for in the compact;

74.1 (6) bring and prosecute legal proceedings or actions in the name of the commission,
74.2 provided that the standing of any state licensing board to sue or be sued under applicable
74.3 law shall not be affected;

74.4 (7) purchase and maintain insurance and bonds;

74.5 (8) borrow, accept, or contract for services of personnel, including but not limited to
74.6 employees of a member state;

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

74.11 (10) accept any and all appropriate donations and grants of money, equipment, supplies,
74.12 materials, and services and to receive, utilize, and dispose of the same; provided that at all
74.13 times the commission shall avoid any appearance of impropriety and conflict of interest;

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

74.17 (12) sell convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of
74.18 any property real, personal, or mixed;

74.19 (13) establish a budget and make expenditures;

74.20 (14) borrow money;

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

74.24 (16) provide and receive information from, and cooperate with, law enforcement agencies;

74.25 (17) establish and elect an executive committee; and

74.26 (18) perform such other functions as may be necessary or appropriate to achieve the
74.27 purposes of this compact consistent with the state regulation of professional counseling
74.28 licensure and practice.

74.29 (d) The executive committee:

74.30 (1) the executive committee shall have the power to act on behalf of the commission
74.31 according to the terms of this compact;

- 75.1 (2) the executive committee shall be composed of up to eleven members:
- 75.2 (i) seven voting members who are elected by the commission from the current
- 75.3 membership of the commission;
- 75.4 (ii) up to four ex-officio, nonvoting members from four recognized national professional
- 75.5 counselor organizations; and
- 75.6 (iii) the ex-officio members will be selected by their respective organizations;
- 75.7 (3) the commission may remove any member of the executive committee as provided
- 75.8 in the bylaws;
- 75.9 (4) the executive committee shall meet at least annually; and
- 75.10 (5) the executive committee shall have the following duties and responsibilities:
- 75.11 (i) recommend to the entire commission changes to the rules or bylaws, changes to this
- 75.12 compact legislation, fees paid by compact member states such as annual dues, and any
- 75.13 commission compact fee charged to licensees for the privilege to practice;
- 75.14 (ii) ensure compact administration services are appropriately provided, contractual or
- 75.15 otherwise;
- 75.16 (iii) prepare and recommend the budget;
- 75.17 (iv) maintain financial records on behalf of the commission;
- 75.18 (v) monitor compact compliance of member states and provide compliance reports to
- 75.19 the commission;
- 75.20 (vi) establish additional committees as necessary; and
- 75.21 (vii) other duties as provided in rules or bylaws.
- 75.22 (e) Meetings of the commission:
- 75.23 (1) all meetings shall be open to the public, and public notice of meetings shall be given
- 75.24 in the same manner as required under the rulemaking provisions in article XI;
- 75.25 (2) the commission or the executive committee or other committees of the commission
- 75.26 may convene in a closed, non-public meeting if the commission or executive committee or
- 75.27 other committees of the commission must discuss:
- 75.28 (i) non-compliance of a member state with its obligations under the compact;

- 76.1 (ii) the employment, compensation, discipline, or other matters, practices, or procedures
76.2 related to specific employees or other matters related to the commission's internal personnel
76.3 practices and procedures;
- 76.4 (iii) current, threatened, or reasonably anticipated litigation;
- 76.5 (iv) negotiation of contracts for the purchase, lease, or sale of goods, services, or real
76.6 estate;
- 76.7 (v) accusing any person of a crime or formally censuring any person;
- 76.8 (vi) disclosure of trade secrets or commercial or financial information that is privileged
76.9 or confidential;
- 76.10 (vii) disclosure of information of a personal nature where disclosure would constitute a
76.11 clearly unwarranted invasion of personal privacy;
- 76.12 (viii) disclosure of investigative records compiled for law enforcement purposes;
- 76.13 (ix) disclosure of information related to any investigative reports prepared by or on
76.14 behalf of or for use of the commission or other committee charged with responsibility of
76.15 investigation or determination of compliance issues pursuant to the compact; or
- 76.16 (x) matters specifically exempted from disclosure by federal or member state statute;
- 76.17 (3) if a meeting, or portion of a meeting, is closed pursuant to this provision, the
76.18 commission's legal counsel or designee shall certify that the meeting may be closed and
76.19 shall reference each relevant exempting provision; and
- 76.20 (4) the commission shall keep minutes that fully and clearly describe all matters discussed
76.21 in a meeting and shall provide a full and accurate summary of actions taken and the reasons
76.22 therefore, including a description of the views expressed. All documents considered in
76.23 connection with an action shall be identified in such minutes. All minutes and documents
76.24 of a closed meeting shall remain under seal, subject to release by a majority vote of the
76.25 commission or order of a court of competent jurisdiction.
- 76.26 (f) Financing of the commission:
- 76.27 (i) the commission shall pay, or provide for the payment of, the reasonable expenses of
76.28 its establishment, organization, and ongoing activities;
- 76.29 (ii) the commission may accept any and all appropriate revenue sources, donations, and
76.30 grants of money, equipment, supplies, materials, and services;

77.1 (iii) the commission may levy on and collect an annual assessment from each member
77.2 state or impose fees on other parties to cover the cost of the operations and activities of the
77.3 commission and its staff, which must be in a total amount sufficient to cover its annual
77.4 budget as approved each year for which revenue is not provided by other sources. The
77.5 aggregate annual assessment amount shall be allocated based upon a formula to be determined
77.6 by the commission, which shall promulgate a rule binding upon all member states;

77.7 (iv) the commission shall not incur obligations of any kind prior to securing the funds
77.8 adequate to meet the same; nor shall the commission pledge the credit of any of the member
77.9 states, except by and with the authority of the member state; and

77.10 (v) the commission shall keep accurate accounts of all receipts and disbursements. The
77.11 receipts and disbursements of the commission shall be subject to the audit and accounting
77.12 procedures established under its bylaws. However, all receipts and disbursements of funds
77.13 handled by the commission shall be audited yearly by a certified or licensed public
77.14 accountant, and the report of the audit shall be included in and become part of the annual
77.15 report of the commission.

77.16 (g) Qualified immunity, defense, and indemnification:

77.17 (1) the members, officers, executive director, employees, and representatives of the
77.18 commission shall be immune from suit and liability, either personally or in their official
77.19 capacity, for any claim for damage to or loss of property or personal injury or other civil
77.20 liability caused by or arising out of any actual or alleged act, error, or omission that occurred,
77.21 or that the person against whom the claim is made had a reasonable basis for believing
77.22 occurred within the scope of commission employment, duties, or responsibilities; provided
77.23 that nothing in this paragraph shall be construed to protect any such person from suit or
77.24 liability for any damage, loss, injury, or liability caused by the intentional or willful or
77.25 wanton misconduct of that person;

77.26 (2) the commission shall defend any member, officer, executive director, employee, or
77.27 representative of the commission in any civil action seeking to impose liability arising out
77.28 of any actual or alleged act, error, or omission that occurred within the scope of commission
77.29 employment, duties, or responsibilities, or that the person against whom the claim is made
77.30 had a reasonable basis for believing occurred within the scope of commission employment,
77.31 duties, or responsibilities; provided that nothing herein shall be construed to prohibit that
77.32 person from retaining his or her own counsel; and provided further, that the actual or alleged
77.33 act, error, or omission did not result from that person's intentional or willful or wanton
77.34 misconduct; and

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

(h) Notwithstanding paragraph (g), clause (1), the liability of the executive director, employees, or representatives of the interstate commission, acting within the scope of their employment or duties, may not exceed the limits of liability set forth under the constitution and laws of this state for state officials, employees, and agents. This paragraph expressly incorporates section 3.736, and neither expands nor limits the rights and remedies provided under that statute.

(i) Except for a claim alleging a violation of this compact, a claim against the commission, its executive director, employees, or representatives alleging a violation of the constitution and laws of this state may be brought in any county where the plaintiff resides. Nothing in this paragraph creates a private right of action.

(j) Nothing in this compact shall be construed as a limitation on the liability of any licensee for professional malpractice or misconduct, which shall be governed solely by any other applicable state laws.

ARTICLE X

DATA SYSTEM

(a) The commission shall provide for the development, maintenance, operation, and utilization of a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in member states.

(b) Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system on all individuals to whom this compact is applicable as required by the rules of the commission, including:

(1) identifying information;

(2) licensure data;

(3) adverse actions against a license or privilege to practice;

79.1 (4) nonconfidential information related to alternative program participation;
79.2 (5) any denial of application for licensure and the reason for such denial;
79.3 (6) current significant investigative information; and
79.4 (7) other information that may facilitate the administration of this compact, as determined
79.5 by the rules of the commission.

79.6 (c) Investigative information pertaining to a licensee in any member state will only be
79.7 available to other member states.

79.8 (d) The commission shall promptly notify all member states of any adverse action taken
79.9 against a licensee or an individual applying for a license. Adverse action information
79.10 pertaining to a licensee in any member state will be available to any other member state.

79.11 (e) Member states contributing information to the data system may designate information
79.12 that may not be shared with the public without the express permission of the contributing
79.13 state.

79.14 (f) Any information submitted to the data system that is subsequently required to be
79.15 expunged by the laws of the member state contributing the information shall be removed
79.16 from the data system.

79.17 ARTICLE XI

79.18 RULEMAKING

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

79.24 (b) The commission shall exercise its rulemaking powers pursuant to the criteria set
79.25 forth in this article and the rules adopted thereunder. Rules and amendments shall become
79.26 binding as of the date specified in each rule or amendment.

79.27 (c) If a majority of the legislatures of the member states rejects a rule, by enactment of
79.28 a statute or resolution in the same manner used to adopt the compact within four years of
79.29 the date of adoption of the rule, then such rule shall have no further force and effect in any
79.30 member state.

79.31 (d) Rules or amendments to the rules shall be adopted at a regular or special meeting of
79.32 the commission.

80.1 (e) Prior to promulgation and adoption of a final rule or rules by the commission, and
80.2 at least thirty days in advance of the meeting at which the rule will be considered and voted
80.3 upon, the commission shall file a notice of proposed rulemaking:

80.4 (1) on the website of the commission or other publicly accessible platform; and

80.5 (2) on the website of each member state professional counseling licensing board or other
80.6 publicly accessible platform or the publication in which each state would otherwise publish
80.7 proposed rules.

80.8 (f) The notice of proposed rulemaking shall include:

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

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

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

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

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

80.17 (h) The commission shall grant an opportunity for a public hearing before it adopts a
80.18 rule or amendment if a hearing is requested by:

80.19 (1) at least 25 persons;

80.20 (2) a state or federal governmental subdivision or agency; or

80.21 (3) an association having at least 25 members.

80.22 (i) If a hearing is held on the proposed rule or amendment, the commission shall publish
80.23 the place, time, and date of the scheduled public hearing. If the hearing is held via electronic
80.24 means, the commission shall publish the mechanism for access to the electronic hearing:

80.25 (1) all persons wishing to be heard at the hearing shall notify the executive director of
80.26 the commission or other designated member in writing of their desire to appear and testify
80.27 at the hearing not less than five business days before the scheduled date of the hearing;

80.28 (2) hearings shall be conducted in a manner providing each person who wishes to
80.29 comment a fair and reasonable opportunity to comment orally or in writing;

80.30 (3) all hearings will be recorded. A copy of the recording will be made available on
80.31 request; and

81.1 (4) nothing in this article shall be construed as requiring a separate hearing on each rule.
81.2 Rules may be grouped for the convenience of the commission at hearings required by this
81.3 article.

81.4 (j) Following the scheduled hearing date, or by the close of business on the scheduled
81.5 hearing date if the hearing was not held, the commission shall consider all written and oral
81.6 comments received.

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

81.10 (l) The commission shall, by majority vote of all members, take final action on the
81.11 proposed rule and shall determine the effective date of the rule, if any, based on the
81.12 rulemaking record and the full text of the rule.

81.13 (m) Upon determination that an emergency exists, the commission may consider and
81.14 adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided
81.15 that the usual rulemaking procedures provided in the compact and in this article shall be
81.16 retroactively applied to the rule as soon as reasonably possible, in no event later than 90
81.17 days after the effective date of the rule. For the purposes of this provision, an emergency
81.18 rule is one that must be adopted immediately in order to:

81.19 (1) meet an imminent threat to public health, safety, or welfare;

81.20 (2) prevent a loss of commission or member state funds;

81.21 (3) meet a deadline for the promulgation of an administrative rule that is established by
81.22 federal law or rule; or

81.23 (4) protect public health and safety.

81.24 (n) The commission or an authorized committee of the commission may direct revisions
81.25 to a previously adopted rule or amendment for purposes of correcting typographical errors,
81.26 errors in format, errors in consistency, or grammatical errors. Public notice of any revisions
81.27 shall be posted on the website of the commission. The revision shall be subject to challenge
81.28 by any person for a period of thirty days after posting. The revision may be challenged only
81.29 on grounds that the revision results in a material change to a rule. A challenge shall be made
81.30 in writing and delivered to the chair of the commission prior to the end of the notice period.
81.31 If no challenge is made, the revision will take effect without further action. If the revision
81.32 is challenged, the revision may not take effect without the approval of the commission.

81.33 ARTICLE XII

82.1 OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

82.2 (a) Oversight:

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

82.7 (2) all courts shall take judicial notice of the compact and the rules in any judicial or
82.8 administrative proceeding in a member state pertaining to the subject matter of this compact
82.9 which may affect the powers, responsibilities, or actions of the commission; and

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

82.14 (b) Default, technical assistance, and termination:

82.15 (1) if the commission determines that a member state has defaulted in the performance
82.16 of its obligations or responsibilities under this compact or the promulgated rules, the
82.17 commission shall:

82.18 (i) provide written notice to the defaulting state and other member states of the nature
82.19 of the default, the proposed means of curing the default, or any other action to be taken by
82.20 the commission; and

82.21 (ii) provide remedial training and specific technical assistance regarding the default.

82.22 (c) If a state in default fails to cure the default, the defaulting state may be terminated
82.23 from the compact upon an affirmative vote of a majority of the member states, and all rights,
82.24 privileges, and benefits conferred by this compact may be terminated on the effective date
82.25 of termination. A cure of the default does not relieve the offending state of obligations or
82.26 liabilities incurred during the period of default.

82.27 (d) Termination of membership in the compact shall be imposed only after all other
82.28 means of securing compliance have been exhausted. Notice of intent to suspend or terminate
82.29 shall be given by the commission to the governor, the majority and minority leaders of the
82.30 defaulting state's legislature, and each of the member states.

83.1 (e) A state that has been terminated is responsible for all assessments, obligations, and
83.2 liabilities incurred through the effective date of termination, including obligations that
83.3 extend beyond the effective date of termination.

83.4 (f) The commission shall not bear any costs related to a state that is found to be in default
83.5 or that has been terminated from the compact, unless agreed upon in writing between the
83.6 commission and the defaulting state.

83.7 (g) The defaulting state may appeal the action of the commission by petitioning the
83.8 United States District Court for the District of Columbia or the federal district where the
83.9 commission has its principal offices. The prevailing member shall be awarded all costs of
83.10 such litigation, including reasonable attorney fees.

83.11 (h) Dispute resolution:

83.12 (1) upon request by a member state, the commission shall attempt to resolve disputes
83.13 related to the compact that arise among member states and between member and nonmember
83.14 states; and

83.15 (2) the commission shall promulgate a rule providing for both mediation and binding
83.16 dispute resolution for disputes as appropriate.

83.17 (i) Enforcement:

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

83.20 (2) by majority vote, the commission may initiate legal action in the United States District
83.21 Court for the District of Columbia or the federal district where the commission has its
83.22 principal offices against a member state in default to enforce compliance with the provisions
83.23 of the compact and its promulgated rules and bylaws. The relief sought may include both
83.24 injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing
83.25 member shall be awarded all costs of such litigation, including reasonable attorney fees;
83.26 and

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

83.29 ARTICLE XIII

83.30 DATE OF IMPLEMENTATION OF THE COUNSELING COMPACT COMMISSION
83.31 AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

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

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

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

(1) a member state's withdrawal shall not take effect until six months after enactment of the repealing statute; and

(2) withdrawal shall not affect the continuing requirement of the withdrawing state's professional counseling licensing board to comply with the investigative and adverse action reporting requirements of this compact prior to the effective date of withdrawal.

(d) Nothing contained in this compact shall be construed to invalidate or prevent any professional counseling licensure agreement or other cooperative arrangement between a member state and a nonmember state that does not conflict with the provisions of this compact.

(e) This compact may be amended by the member states. No amendment to this compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

ARTICLE XIV

CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any member state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any member state, the compact shall

85.1 remain in full force and effect as to the remaining member states and in full force and effect
85.2 as to the member state affected as to all severable matters.

85.3 ARTICLE XV

85.4 BINDING EFFECT OF COMPACT AND OTHER LAWS

85.5 (a) A licensee providing professional counseling services in a remote state under the
85.6 privilege to practice shall adhere to the laws and regulations, including scope of practice,
85.7 of the remote state.

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

85.10 (c) Any laws in a member state in conflict with the compact are superseded to the extent
85.11 of the conflict.

85.12 (d) Any lawful actions of the commission, including all rules and bylaws properly
85.13 promulgated by the commission, are binding upon the member states.

85.14 (e) All permissible agreements between the commission and the member states are
85.15 binding in accordance with their terms.

85.16 (f) In the event any provision of the compact exceeds the constitutional limits imposed
85.17 on the legislature of any member state, the provision shall be ineffective to the extent of the
85.18 conflict with the constitutional provision in question in that member state.

85.19 ARTICLE 5

85.20 AUDIOLOGIST AND SPEECH-LANGUAGE PATHOLOGISTS

85.21 Section 1. [148.5185] AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY
85.22 INTERSTATE COMPACT.

85.23 The Audiology and Speech-Language Pathology Interstate Compact is enacted into law
85.24 and entered into with all other jurisdictions legally joining in it in the form substantially
85.25 specified in this section.

85.26 ARTICLE I

85.27 DEFINITIONS

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

86.1 (A) "Active duty military" means full-time duty status in the active uniformed service
86.2 of the United States, including members of the National Guard and Reserve on active duty
86.3 orders pursuant to United States Code, title 10, sections 1209 and 1211.

86.4 (B) "Adverse action" means any administrative, civil, equitable, or criminal action
86.5 permitted by a state's laws which is imposed by a licensing board or other authority against
86.6 an audiologist or speech-language pathologist, including actions against an individual's
86.7 license or privilege to practice such as revocation, suspension, probation, monitoring of the
86.8 licensee, or restriction on the licensee's practice.

86.9 (C) "Alternative program" means a non-disciplinary monitoring process approved by
86.10 an audiology or speech-language pathology licensing board to address impaired practitioners.

86.11 (D) "Audiologist" means an individual who is licensed by a state to practice audiology.

86.12 (E) "Audiology" means the care and services provided by a licensed audiologist as set
86.13 forth in the member state's statutes and rules.

86.14 (F) "Audiology and Speech-Language Pathology Compact Commission" or "commission"
86.15 means the national administrative body whose membership consists of all states that have
86.16 enacted the compact.

86.17 (G) "Audiology and speech-language pathology licensing board," "audiology licensing
86.18 board," "speech-language pathology licensing board," or "licensing board" means the agency
86.19 of a state that is responsible for the licensing and regulation of audiologists or
86.20 speech-language pathologists or both.

86.21 (H) "Compact privilege" means the authorization granted by a remote state to allow a
86.22 licensee from another member state to practice as an audiologist or speech-language
86.23 pathologist in the remote state under its laws and rules. The practice of audiology or
86.24 speech-language pathology occurs in the member state where the patient, client, or student
86.25 is located at the time of the patient, client, or student encounter.

86.26 (I) "Current significant investigative information" means investigative information that
86.27 a licensing board, after an inquiry or investigation that includes notification and an
86.28 opportunity for the audiologist or speech-language pathologist to respond, if required by
86.29 state law, has reason to believe is not groundless and, if proved true, would indicate more
86.30 than a minor infraction.

86.31 (J) "Data system" means a repository of information about licensees, including but not
86.32 limited to continuing education, examination, licensure, investigation, compact privilege,
86.33 and adverse action.

87.1 (K) "Encumbered license" means a license in which an adverse action restricts the
87.2 practice of audiology or speech-language pathology by the licensee and said adverse action
87.3 has been reported to the National Practitioners Data Bank (NPDB).

87.4 (L) "Executive committee" means a group of directors elected or appointed to act on
87.5 behalf of, and within the powers granted to them by, the commission.

87.6 (M) "Home state" means the member state that is the licensee's primary state of residence.

87.7 (N) "Impaired practitioner" means individuals whose professional practice is adversely
87.8 affected by substance abuse, addiction, or other health-related conditions.

87.9 (O) "Licensee" means an individual who currently holds an authorization from the state
87.10 licensing board to practice as an audiologist or speech-language pathologist.

87.11 (P) "Member state" means a state that has enacted the compact.

87.12 (Q) "Privilege to practice" means a legal authorization permitting the practice of audiology
87.13 or speech-language pathology in a remote state.

87.14 (R) "Remote state" means a member state other than the home state where a licensee is
87.15 exercising or seeking to exercise the compact privilege.

87.16 (S) "Rule" means a regulation, principle, or directive promulgated by the commission
87.17 that has the force of law.

87.18 (T) "Single-state license" means an audiology or speech-language pathology license
87.19 issued by a member state that authorizes practice only within the issuing state and does not
87.20 include a privilege to practice in any other member state.

87.21 (U) "Speech-language pathologist" means an individual who is licensed by a state to
87.22 practice speech-language pathology.

87.23 (V) "Speech-language pathology" means the care and services provided by a licensed
87.24 speech-language pathologist as set forth in the member state's statutes and rules.

87.25 (W) "State" means any state, commonwealth, district, or territory of the United States
87.26 of America that regulates the practice of audiology and speech-language pathology.

87.27 (X) "State practice laws" means a member state's laws, rules, and regulations that govern
87.28 the practice of audiology or speech-language pathology, define the scope of audiology or
87.29 speech-language pathology practice, and create the methods and grounds for imposing
87.30 discipline.

88.1 (Y) "Telehealth" means the application of telecommunication technology to deliver
88.2 audiology or speech-language pathology services at a distance for assessment, intervention,
88.3 or consultation.

88.4 ARTICLE II

88.5 STATE PARTICIPATION IN THE COMPACT

88.6 (A) A license issued to an audiologist or speech-language pathologist by a home state
88.7 to a resident in that state shall be recognized by each member state as authorizing an
88.8 audiologist or speech-language pathologist to practice audiology or speech-language
88.9 pathology, under a privilege to practice, in each member state.

88.10 (B) A state must implement or utilize procedures for considering the criminal history
88.11 records of applicants for initial privilege to practice. These procedures shall include the
88.12 submission of fingerprints or other biometric-based information by applicants for the purpose
88.13 of obtaining an applicant's criminal history record information from the Federal Bureau of
88.14 Investigation and the agency responsible for retaining that state's criminal records.

88.15 (1) A member state must fully implement a criminal background check requirement,
88.16 within a time frame established by rule, by receiving the results of the Federal Bureau of
88.17 Investigation record search on criminal background checks and use the results in making
88.18 licensure decisions.

88.19 (2) Communication between a member state and the commission and among member
88.20 states regarding the verification of eligibility for licensure through the compact shall not
88.21 include any information received from the Federal Bureau of Investigation relating to a
88.22 federal criminal records check performed by a member state under Public Law 92-544.

88.23 (C) Upon application for a privilege to practice, the licensing board in the issuing remote
88.24 state shall ascertain, through the data system, whether the applicant has ever held, or is the
88.25 holder of, a license issued by any other state, whether there are any encumbrances on any
88.26 license or privilege to practice held by the applicant, and whether any adverse action has
88.27 been taken against any license or privilege to practice held by the applicant.

88.28 (D) Each member state shall require an applicant to obtain or retain a license in the home
88.29 state and meet the home state's qualifications for licensure or renewal of licensure, as well
88.30 as all other applicable state laws.

88.31 (E) An audiologist must:

88.32 (1) meet one of the following educational requirements:

89.1 (i) on or before December 31, 2007, have graduated with a master's degree or doctoral
89.2 degree in audiology, or equivalent degree regardless of degree name, from a program that
89.3 is accredited by an accrediting agency recognized by the Council for Higher Education
89.4 Accreditation, or its successor, or by the United States Department of Education and operated
89.5 by a college or university accredited by a regional or national accrediting organization
89.6 recognized by the board; or

89.7 (ii) on or after January 1, 2008, have graduated with a doctoral degree in audiology, or
89.8 equivalent degree regardless of degree name, from a program that is accredited by an
89.9 accrediting agency recognized by the Council for Higher Education Accreditation, or its
89.10 successor, or by the United States Department of Education and operated by a college or
89.11 university accredited by a regional or national accrediting organization recognized by the
89.12 board; or

89.13 (iii) have graduated from an audiology program that is housed in an institution of higher
89.14 education outside of the United States (a) for which the program and institution have been
89.15 approved by the authorized accrediting body in the applicable country and (b) the degree
89.16 program has been verified by an independent credentials review agency to be comparable
89.17 to a state licensing board-approved program;

89.18 (2) have completed a supervised clinical practicum experience from an accredited
89.19 educational institution or its cooperating programs as required by the board;

89.20 (3) have successfully passed a national examination approved by the commission;

89.21 (4) hold an active, unencumbered license;

89.22 (5) not have been convicted or found guilty, and not have entered into an agreed
89.23 disposition, of a felony related to the practice of audiology, under applicable state or federal
89.24 criminal law; and

89.25 (6) have a valid United States Social Security or National Practitioner Identification
89.26 number.

89.27 (F) A speech-language pathologist must:

89.28 (1) meet one of the following educational requirements:

89.29 (i) have graduated with a master's degree from a speech-language pathology program
89.30 that is accredited by an organization recognized by the United States Department of Education
89.31 and operated by a college or university accredited by a regional or national accrediting
89.32 organization recognized by the board; or

90.1 (ii) have graduated from a speech-language pathology program that is housed in an
90.2 institution of higher education outside of the United States (a) for which the program and
90.3 institution have been approved by the authorized accrediting body in the applicable country
90.4 and (b) the degree program has been verified by an independent credentials review agency
90.5 to be comparable to a state licensing board-approved program;

90.6 (2) have completed a supervised clinical practicum experience from an educational
90.7 institution or its cooperating programs as required by the commission;

90.8 (3) have completed a supervised postgraduate professional experience as required by
90.9 the commission;

90.10 (4) have successfully passed a national examination approved by the commission;

90.11 (5) hold an active, unencumbered license;

90.12 (6) not have been convicted or found guilty, and not have entered into an agreed
90.13 disposition, of a felony related to the practice of speech-language pathology, under applicable
90.14 state or federal criminal law; and

90.15 (7) have a valid United States Social Security or National Practitioner Identification
90.16 number.

90.17 (G) The privilege to practice is derived from the home state license.

90.18 (H) An audiologist or speech-language pathologist practicing in a member state must
90.19 comply with the state practice laws of the state in which the client is located at the time
90.20 service is provided. The practice of audiology and speech-language pathology shall include
90.21 all audiology and speech-language pathology practice as defined by the state practice laws
90.22 of the member state in which the client is located. The practice of audiology and
90.23 speech-language pathology in a member state under a privilege to practice shall subject an
90.24 audiologist or speech-language pathologist to the jurisdiction of the licensing board, the
90.25 courts and the laws of the member state in which the client is located at the time service is
90.26 provided.

90.27 (I) Individuals not residing in a member state shall continue to be able to apply for a
90.28 member state's single-state license as provided under the laws of each member state.
90.29 However, the single-state license granted to these individuals shall not be recognized as
90.30 granting the privilege to practice audiology or speech-language pathology in any other
90.31 member state. Nothing in this compact shall affect the requirements established by a member
90.32 state for the issuance of a single-state license.

90.33 (J) Member states may charge a fee for granting a compact privilege.

91.1 (K) Member states must comply with the bylaws and rules and regulations of the
91.2 commission.

91.3 ARTICLE III

91.4 COMPACT PRIVILEGE

91.5 (A) To exercise the compact privilege under the terms and provisions of the compact,
91.6 the audiologist or speech-language pathologist shall:

91.7 (1) hold an active license in the home state;

91.8 (2) have no encumbrance on any state license;

91.9 (3) be eligible for a compact privilege in any member state in accordance with Article
91.10 II;

91.11 (4) have not had any adverse action against any license or compact privilege within the
91.12 previous two years from date of application;

91.13 (5) notify the commission that the licensee is seeking the compact privilege within a
91.14 remote state or states;

91.15 (6) pay any applicable fees, including any state fee, for the compact privilege; and

91.16 (7) report to the commission adverse action taken by any nonmember state within 30
91.17 days from the date the adverse action is taken.

91.18 (B) For the purposes of the compact privilege, an audiologist or speech-language
91.19 pathologist shall only hold one home state license at a time.

91.20 (C) Except as provided in Article V, if an audiologist or speech-language pathologist
91.21 changes primary state of residence by moving between two member states, the audiologist
91.22 or speech-language pathologist must apply for licensure in the new home state, and the
91.23 license issued by the prior home state shall be deactivated in accordance with applicable
91.24 rules adopted by the commission.

91.25 (D) The audiologist or speech-language pathologist may apply for licensure in advance
91.26 of a change in primary state of residence.

91.27 (E) A license shall not be issued by the new home state until the audiologist or
91.28 speech-language pathologist provides satisfactory evidence of a change in primary state of
91.29 residence to the new home state and satisfies all applicable requirements to obtain a license
91.30 from the new home state.

92.1 (F) If an audiologist or speech-language pathologist changes primary state of residence
92.2 by moving from a member state to a nonmember state, the license issued by the prior home
92.3 state shall convert to a single-state license, valid only in the former home state.

92.4 (G) The compact privilege is valid until the expiration date of the home state license.
92.5 The licensee must comply with the requirements of Article III, (A), to maintain the compact
92.6 privilege in the remote state.

92.7 (H) A licensee providing audiology or speech-language pathology services in a remote
92.8 state under the compact privilege shall function within the laws and regulations of the remote
92.9 state.

92.10 (I) A licensee providing audiology or speech-language pathology services in a remote
92.11 state is subject to that state's regulatory authority. A remote state may, in accordance with
92.12 due process and that state's laws, remove a licensee's compact privilege in the remote state
92.13 for a specific period of time, impose fines, or take any other necessary actions to protect
92.14 the health and safety of its citizens.

92.15 (J) If a home state license is encumbered, the licensee shall lose the compact privilege
92.16 in any remote state until the following occur:

92.17 (1) the home state license is no longer encumbered; and

92.18 (2) two years have elapsed from the date of the adverse action.

92.19 (K) Once an encumbered license in the home state is restored to good standing, the
92.20 licensee must meet the requirements of Article III, (A), to obtain a compact privilege in any
92.21 remote state.

92.22 (L) Once the requirements of Article III, (J), have been met, the licensee must meet the
92.23 requirements in Article III, (A), to obtain a compact privilege in a remote state.

92.24 ARTICLE IV

92.25 COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

92.26 Member states shall recognize the right of an audiologist or speech-language pathologist,
92.27 licensed by a home state in accordance with Article II and under rules promulgated by the
92.28 commission, to practice audiology or speech-language pathology in a member state via
92.29 telehealth under a privilege to practice as provided in the compact and rules promulgated
92.30 by the commission.

92.31 ARTICLE V

92.32 ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

93.1 Active duty military personnel, or their spouse, shall designate a home state where the
93.2 individual has a current license in good standing. The individual may retain the home state
93.3 designation during the period the service member is on active duty. Subsequent to designating
93.4 a home state, the individual shall only change their home state through application for
93.5 licensure in the new state.

93.6 ARTICLE VI

93.7 ADVERSE ACTIONS

93.8 (A) In addition to the other powers conferred by state law, a remote state shall have the
93.9 authority, in accordance with existing state due process law, to:

93.10 (1) take adverse action against an audiologist's or speech-language pathologist's privilege
93.11 to practice within that member state; and

93.12 (2) issue subpoenas for both hearings and investigations that require the attendance and
93.13 testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing
93.14 board in a member state for the attendance and testimony of witnesses or the production of
93.15 evidence from another member state shall be enforced in the latter state by any court of
93.16 competent jurisdiction, according to the practice and procedure of that court applicable to
93.17 subpoenas issued in proceedings pending before it. The issuing authority shall pay any
93.18 witness fees, travel expenses, mileage and other fees required by the service statutes of the
93.19 state in which the witnesses or evidence are located.

93.20 (B) Only the home state shall have the power to take adverse action against an
93.21 audiologist's or speech-language pathologist's license issued by the home state.

93.22 (C) For purposes of taking adverse action, the home state shall give the same priority
93.23 and effect to reported conduct received from a member state as it would if the conduct had
93.24 occurred within the home state. In so doing, the home state shall apply its own state laws
93.25 to determine appropriate action.

93.26 (D) The home state shall complete any pending investigations of an audiologist or
93.27 speech-language pathologist who changes primary state of residence during the course of
93.28 the investigations. The home state shall also have the authority to take appropriate action
93.29 and shall promptly report the conclusions of the investigations to the administrator of the
93.30 data system. The administrator of the data system shall promptly notify the new home state
93.31 of any adverse actions.

93.32 (E) If otherwise permitted by state law, the member state may recover from the affected
93.33 audiologist or speech-language pathologist the costs of investigations and disposition of

94.1 cases resulting from any adverse action taken against that audiologist or speech-language
94.2 pathologist.

94.3 (F) The member state may take adverse action based on the factual findings of the remote
94.4 state, provided that the member state follows the member state's own procedures for taking
94.5 the adverse action.

94.6 (G) Joint Investigations:

94.7 (1) In addition to the authority granted to a member state by its respective audiology or
94.8 speech-language pathology practice act or other applicable state law, any member state may
94.9 participate with other member states in joint investigations of licensees.

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

94.12 (H) If adverse action is taken by the home state against an audiologist's or
94.13 speech-language pathologist's license, the audiologist's or speech-language pathologist's
94.14 privilege to practice in all other member states shall be deactivated until all encumbrances
94.15 have been removed from the state license. All home state disciplinary orders that impose
94.16 adverse action against an audiologist's or speech-language pathologist's license shall include
94.17 a statement that the audiologist's or speech-language pathologist's privilege to practice is
94.18 deactivated in all member states during the pendency of the order.

94.19 (I) If a member state takes adverse action, it shall promptly notify the administrator of
94.20 the data system. The administrator of the data system shall promptly notify the home state
94.21 of any adverse actions by remote states.

94.22 (J) Nothing in this compact shall override a member state's decision that participation
94.23 in an alternative program may be used in lieu of adverse action.

94.24 ARTICLE VII

94.25 ESTABLISHMENT OF THE AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY
94.26 COMPACT COMMISSION

94.27 (A) The compact member states hereby create and establish a joint public agency known
94.28 as the Audiology and Speech-Language Pathology Compact Commission:

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

94.30 (2) Except as provided under paragraph (H), venue is proper and judicial proceedings
94.31 by or against the commission shall be brought solely and exclusively in a court of competent
94.32 jurisdiction where the principal office of the commission is located. The commission may

95.1 waive venue and jurisdictional defenses to the extent it adopts or consents to participate in
95.2 alternative dispute resolution proceedings.

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

95.4 (B) Membership, Voting, and Meetings:

95.5 (1) Each member state shall have two delegates selected by that member state's licensing
95.6 board. The delegates shall be current members of the licensing board. One shall be an
95.7 audiologist and one shall be a speech-language pathologist.

95.8 (2) An additional five delegates, who are either a public member or board administrator
95.9 from a state licensing board, shall be chosen by the executive committee from a pool of
95.10 nominees provided by the commission at large.

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

95.13 (4) The member state board shall fill any vacancy occurring on the commission, within
95.14 90 days.

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

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

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

95.23 (C) The commission shall have the following powers and duties:

95.24 (1) establish the fiscal year of the commission;

95.25 (2) establish bylaws;

95.26 (3) establish a code of ethics;

95.27 (4) maintain its financial records in accordance with the bylaws;

95.28 (5) meet and take actions as are consistent with the provisions of this compact and the
95.29 bylaws;

96.1 (6) promulgate uniform rules to facilitate and coordinate implementation and
96.2 administration of this compact. The rules shall have the force and effect of law and shall
96.3 be binding in all member states;

96.4 (7) bring and prosecute legal proceedings or actions in the name of the commission,
96.5 provided that the standing of any state audiology or speech-language pathology licensing
96.6 board to sue or be sued under applicable law shall not be affected;

96.7 (8) purchase and maintain insurance and bonds;

96.8 (9) borrow, accept, or contract for services of personnel, including but not limited to
96.9 employees of a member state;

96.10 (10) hire employees, elect or appoint officers, fix compensation, define duties, grant
96.11 individuals appropriate authority to carry out the purposes of the compact, and establish the
96.12 commission's personnel policies and programs relating to conflicts of interest, qualifications
96.13 of personnel, and other related personnel matters;

96.14 (11) accept any and all appropriate donations and grants of money, equipment, supplies,
96.15 materials, and services and to receive, utilize, and dispose of the same; provided that at all
96.16 times the commission shall avoid any appearance of impropriety or conflict of interest;

96.17 (12) lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold,
96.18 improve, or use any property real, personal, or mixed; provided that at all times the
96.19 commission shall avoid any appearance of impropriety;

96.20 (13) sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of
96.21 any property real, personal, or mixed;

96.22 (14) establish a budget and make expenditures;

96.23 (15) borrow money;

96.24 (16) appoint committees, including standing committees composed of members and
96.25 other interested persons as may be designated in this compact and the bylaws;

96.26 (17) provide and receive information from, and cooperate with, law enforcement agencies;

96.27 (18) establish and elect an executive committee; and

96.28 (19) perform other functions as may be necessary or appropriate to achieve the purposes
96.29 of this compact consistent with the state regulation of audiology and speech-language
96.30 pathology licensure and practice.

96.31 (D) The Executive Committee:

97.1 The executive committee shall have the power to act on behalf of the commission
97.2 according to the terms of this compact. The executive committee shall be composed of ten
97.3 members:

97.4 (1) seven voting members who are elected by the commission from the current
97.5 membership of the commission;

97.6 (2) two ex officios, consisting of one nonvoting member from a recognized national
97.7 audiology professional association and one nonvoting member from a recognized national
97.8 speech-language pathology association; and

97.9 (3) one ex officio, nonvoting member from the recognized membership organization of
97.10 the audiology and speech-language pathology licensing boards.

97.11 (E) The ex officio members shall be selected by their respective organizations.

97.12 (1) The commission may remove any member of the executive committee as provided
97.13 in bylaws.

97.14 (2) The executive committee shall meet at least annually.

97.15 (3) The executive committee shall have the following duties and responsibilities:

97.16 (i) recommend to the entire commission changes to the rules or bylaws, changes to this
97.17 compact legislation, fees paid by compact member states such as annual dues, and any
97.18 commission compact fee charged to licensees for the compact privilege;

97.19 (ii) ensure compact administration services are appropriately provided, contractual or
97.20 otherwise;

97.21 (iii) prepare and recommend the budget;

97.22 (iv) maintain financial records on behalf of the commission;

97.23 (v) monitor compact compliance of member states and provide compliance reports to
97.24 the commission;

97.25 (vi) establish additional committees as necessary; and

97.26 (vii) other duties as provided in rules or bylaws.

97.27 (4) All meetings of the commission shall be open to the public and public notice of
97.28 meetings shall be given in the same manner as required under the rulemaking provisions in
97.29 Article IX.

98.1 (5) The commission or the executive committee or other committees of the commission
98.2 may convene in a closed, nonpublic meeting if the commission or executive committee or
98.3 other committees of the commission must discuss:

98.4 (i) noncompliance of a member state with its obligations under the compact;

98.5 (ii) the employment, compensation, discipline, or other matters, practices, or procedures
98.6 related to specific employees or other matters related to the commission's internal personnel
98.7 practices and procedures;

98.8 (iii) current, threatened, or reasonably anticipated litigation;

98.9 (iv) negotiation of contracts for the purchase, lease, or sale of goods, services, or real
98.10 estate;

98.11 (v) accusing any person of a crime or formally censuring any person;

98.12 (vi) disclosure of trade secrets or commercial or financial information that is privileged
98.13 or confidential;

98.14 (vii) disclosure of information of a personal nature where disclosure would constitute a
98.15 clearly unwarranted invasion of personal privacy;

98.16 (viii) disclosure of investigative records compiled for law enforcement purposes;

98.17 (ix) disclosure of information related to any investigative reports prepared by or on
98.18 behalf of or for use of the commission or other committee charged with responsibility of
98.19 investigation or determination of compliance issues pursuant to the compact; or

98.20 (x) matters specifically exempted from disclosure by federal or member state statute.

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

98.24 (7) The commission shall keep minutes that fully and clearly describe all matters
98.25 discussed in a meeting and shall provide a full and accurate summary of actions taken, and
98.26 the reasons therefore, including a description of the views expressed. All documents
98.27 considered in connection with an action shall be identified in minutes. All minutes and
98.28 documents of a closed meeting shall remain under seal, subject to release by a majority vote
98.29 of the commission or order of a court of competent jurisdiction.

98.30 (8) Financing of the Commission:

99.1 (i) The commission shall pay, or provide for the payment of, the reasonable expenses
99.2 of its establishment, organization, and ongoing activities.

99.3 (ii) The commission may accept any and all appropriate revenue sources, donations, and
99.4 grants of money, equipment, supplies, materials, and services.

99.5 (iii) The commission may levy on and collect an annual assessment from each member
99.6 state or impose fees on other parties to cover the cost of the operations and activities of the
99.7 commission and its staff, which must be in a total amount sufficient to cover its annual
99.8 budget as approved each year for which revenue is not provided by other sources. The
99.9 aggregate annual assessment amount shall be allocated based upon a formula to be determined
99.10 by the commission, which shall promulgate a rule binding upon all member states.

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

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

99.20 (F) Qualified Immunity, Defense, and Indemnification:

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

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

100.1 duties, or responsibilities; provided that nothing herein shall be construed to prohibit that
100.2 person from retaining his or her own counsel; and provided further that the actual or alleged
100.3 act, error, or omission did not result from that person's intentional or willful or wanton
100.4 misconduct.

100.5 (3) The commission shall indemnify and hold harmless any member, officer, executive
100.6 director, employee, or representative of the commission for the amount of any settlement
100.7 or judgment obtained against that person arising out of any actual or alleged act, error, or
100.8 omission that occurred within the scope of commission employment, duties, or
100.9 responsibilities, or that person had a reasonable basis for believing occurred within the scope
100.10 of commission employment, duties, or responsibilities; provided that the actual or alleged
100.11 act, error, or omission did not result from the intentional or willful or wanton misconduct
100.12 of that person.

100.13 (G) Notwithstanding paragraph (F), clause (1), the liability of the executive director,
100.14 employees, or representatives of the interstate commission, acting within the scope of their
100.15 employment or duties, may not exceed the limits of liability set forth under the constitution
100.16 and laws of this state for state officials, employees, and agents. This paragraph expressly
100.17 incorporates section 3.736, and neither expands nor limits the rights and remedies provided
100.18 under that statute.

100.19 (H) Except for a claim alleging a violation of this compact, a claim against the
100.20 commission, its executive director, employees, or representatives alleging a violation of the
100.21 constitution and laws of this state may be brought in any county where the plaintiff resides.
100.22 Nothing in this paragraph creates a private right of action.

100.23 (I) Nothing in this compact shall be construed as a limitation on the liability of any
100.24 licensee for professional malpractice or misconduct, which shall be governed solely by any
100.25 other applicable state laws.

100.26 ARTICLE VIII

100.27 DATA SYSTEM

100.28 (A) The commission shall provide for the development, maintenance, and utilization of
100.29 a coordinated database and reporting system containing licensure, adverse action, and
100.30 investigative information on all licensed individuals in member states.

100.31 (B) Notwithstanding any other provision of state law to the contrary, a member state
100.32 shall submit a uniform data set to the data system on all individuals to whom this compact
100.33 is applicable as required by the rules of the commission, including:

- 101.1 (1) identifying information;
- 101.2 (2) licensure data;
- 101.3 (3) adverse actions against a license or compact privilege;
- 101.4 (4) nonconfidential information related to alternative program participation;
- 101.5 (5) any denial of application for licensure, and the reason or reasons for denial; and
- 101.6 (6) other information that may facilitate the administration of this compact, as determined
- 101.7 by the rules of the commission.
- 101.8 (C) Investigative information pertaining to a licensee in any member state shall only be
- 101.9 available to other member states.
- 101.10 (D) The commission shall promptly notify all member states of any adverse action taken
- 101.11 against a licensee or an individual applying for a license. Adverse action information
- 101.12 pertaining to a licensee in any member state shall be available to any other member state.
- 101.13 (E) Member states contributing information to the data system may designate information
- 101.14 that may not be shared with the public without the express permission of the contributing
- 101.15 state.
- 101.16 (F) Any information submitted to the data system that is subsequently required to be
- 101.17 expunged by the laws of the member state contributing the information shall be removed
- 101.18 from the data system.

101.19 ARTICLE IX

101.20 RULEMAKING

- 101.21 (A) The commission shall exercise its rulemaking powers pursuant to the criteria set
- 101.22 forth in this article and the rules adopted thereunder. Rules and amendments shall become
- 101.23 binding as of the date specified in each rule or amendment.
- 101.24 (B) If a majority of the legislatures of the member states rejects a rule, by enactment of
- 101.25 a statute or resolution in the same manner used to adopt the compact within four years of
- 101.26 the date of adoption of the rule, the rule shall have no further force and effect in any member
- 101.27 state.
- 101.28 (C) Rules or amendments to the rules shall be adopted at a regular or special meeting
- 101.29 of the commission.

102.1 (D) Prior to promulgation and adoption of a final rule or rules by the commission, and
102.2 at least 30 days in advance of the meeting at which the rule shall be considered and voted
102.3 upon, the commission shall file a notice of proposed rulemaking:

102.4 (1) on the website of the commission or other publicly accessible platform; and

102.5 (2) on the website of each member state audiology or speech-language pathology licensing
102.6 board or other publicly accessible platform or the publication in which each state would
102.7 otherwise publish proposed rules.

102.8 (E) The notice of proposed rulemaking shall include:

102.9 (1) the proposed time, date, and location of the meeting in which the rule shall be
102.10 considered and voted upon;

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

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

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

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

102.17 (G) The commission shall grant an opportunity for a public hearing before it adopts a
102.18 rule or amendment if a hearing is requested by:

102.19 (1) at least 25 persons;

102.20 (2) a state or federal governmental subdivision or agency; or

102.21 (3) an association having at least 25 members.

102.22 (H) If a hearing is held on the proposed rule or amendment, the commission shall publish
102.23 the place, time, and date of the scheduled public hearing. If the hearing is held via electronic
102.24 means, the commission shall publish the mechanism for access to the electronic hearing.

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

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

102.30 (3) All hearings shall be recorded. A copy of the recording shall be made available on
102.31 request.

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

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

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

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

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

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

(2) prevent a loss of commission or member state funds; or

(3) meet a deadline for the promulgation of an administrative rule that is established by federal law or rule.

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

ARTICLE X

OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

104.1 (A) Dispute Resolution:

104.2 (1) Upon request by a member state, the commission shall attempt to resolve disputes
104.3 related to the compact that arise among member states and between member and nonmember
104.4 states.

104.5 (2) The commission shall promulgate a rule providing for both mediation and binding
104.6 dispute resolution for such disputes as appropriate.

104.7 (B) Enforcement:

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

104.10 (2) By majority vote, the commission may initiate legal action in the United States
104.11 District Court for the District of Columbia or the federal district where the commission has
104.12 its principal offices against a member state in default to enforce compliance with the
104.13 provisions of the compact and its promulgated rules and bylaws. The relief sought may
104.14 include both injunctive relief and damages. In the event judicial enforcement is necessary,
104.15 the prevailing member shall be awarded all costs of litigation, including reasonable attorney's
104.16 fees.

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

104.19 ARTICLE XI

104.20 DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR
104.21 AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY PRACTICE AND
104.22 ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

104.23 (A) The compact shall come into effect on the date on which the compact statute is
104.24 enacted into law in the tenth member state. The provisions, which become effective at that
104.25 time, shall be limited to the powers granted to the commission relating to assembly and the
104.26 promulgation of rules. Thereafter, the commission shall meet and exercise rulemaking
104.27 powers necessary to the implementation and administration of the compact.

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

105.1 (C) Any member state may withdraw from this compact by enacting a statute repealing
105.2 the same.

105.3 (1) A member state's withdrawal shall not take effect until six months after enactment
105.4 of the repealing statute.

105.5 (2) Withdrawal shall not affect the continuing requirement of the withdrawing state's
105.6 audiology or speech-language pathology licensing board to comply with the investigative
105.7 and adverse action reporting requirements of this compact prior to the effective date of
105.8 withdrawal.

105.9 (D) Nothing contained in this compact shall be construed to invalidate or prevent any
105.10 audiology or speech-language pathology licensure agreement or other cooperative
105.11 arrangement between a member state and a nonmember state that does not conflict with the
105.12 provisions of this compact.

105.13 (E) This compact may be amended by the member states. No amendment to this compact
105.14 shall become effective and binding upon any member state until it is enacted into the laws
105.15 of all member states.

105.16 ARTICLE XII

105.17 CONSTRUCTION AND SEVERABILITY

105.18 This compact shall be liberally construed so as to effectuate the purposes thereof. The
105.19 provisions of this compact shall be severable and if any phrase, clause, sentence, or provision
105.20 of this compact is declared to be contrary to the constitution of any member state or of the
105.21 United States or the applicability thereof to any government, agency, person, or circumstance
105.22 is held invalid, the validity of the remainder of this compact and the applicability thereof
105.23 to any government, agency, person, or circumstance shall not be affected thereby. If this
105.24 compact shall be held contrary to the constitution of any member state, the compact shall
105.25 remain in full force and effect as to the remaining member states and in full force and effect
105.26 as to the member state affected as to all severable matters.

105.27 ARTICLE XIII

105.28 BINDING EFFECT OF COMPACT AND OTHER LAWS

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

105.31 (B) All laws in a member state in conflict with the compact are superseded to the extent
105.32 of the conflict.

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

(D) All agreements between the commission and the member states are binding in accordance with their terms.

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

Sec. 2. [148.5186] APPLICATION OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY INTERSTATE COMPACT TO EXISTING LAWS.

Subdivision 1. **Rulemaking.** Rules developed by the Audiology and Speech-Language Pathology Compact Commission under section 148.5185 are not subject to sections 14.05 to 14.389.

Subd. 2. **Background studies.** The commissioner of health is authorized to require an audiologist or speech-language pathologist licensed in Minnesota as the home state to submit to a criminal history background check under section 144.0572.

ARTICLE 6

DENTIST AND DENTAL HYGIENISTS

Section 1. [150A.051] DENTIST AND DENTAL HYGIENIST COMPACT.

The dentist and dental hygienist compact is enacted into law and entered into with all other jurisdictions legally joining in the compact in the form substantially specified in this section.

ARTICLE I

TITLE

This statute shall be known and cited as the dentist and dental hygienist compact.

ARTICLE II

DEFINITIONS

As used in this compact, unless the context requires otherwise, the following definitions shall apply:

(A) "Active military member" means any person with full-time duty status in the armed forces of the United States including members of the National Guard and Reserve.

107.1 (B) "Adverse action" means disciplinary action or encumbrance imposed on a license
107.2 or compact privilege by a state licensing authority.

107.3 (C) "Alternative program" means a nondisciplinary monitoring or practice remediation
107.4 process applicable to a dentist or dental hygienist approved by a state licensing authority
107.5 of a participating state in which the dentist or dental hygienist is licensed. This includes but
107.6 is not limited to programs to which licensees with substance abuse or addiction issues are
107.7 referred in lieu of adverse action.

107.8 (D) "Clinical assessment" means examination or process, required for licensure as a
107.9 dentist or dental hygienist as applicable, that provides evidence of clinical competence in
107.10 dentistry or dental hygiene.

107.11 (E) "Commissioner" means the individual appointed by a participating state to serve as
107.12 the member of the commission for that participating state.

107.13 (F) "Compact" means this dentist and dental hygienist compact.

107.14 (G) "Compact privilege" means the authorization granted by a remote state to allow a
107.15 licensee from a participating state to practice as a dentist or dental hygienist in a remote
107.16 state.

107.17 (H) "Continuing professional development" means a requirement as a condition of license
107.18 renewal to provide evidence of successful participation in educational or professional
107.19 activities relevant to practice or area of work.

107.20 (I) "Criminal background check" means the submission of fingerprints or other
107.21 biometric-based information for a license applicant for the purpose of obtaining that
107.22 applicant's criminal history record information, as defined in Code of Federal Regulations,
107.23 title 28, section 20.3(d), from the Federal Bureau of Investigation and the state's criminal
107.24 history record repository as defined in Code of Federal Regulations, title 28, section 20.3(f).

107.25 (J) "Data system" means the commission's repository of information about licensees,
107.26 including but not limited to examination, licensure, investigative, compact privilege, adverse
107.27 action, and alternative program.

107.28 (K) "Dental hygienist" means an individual who is licensed by a state licensing authority
107.29 to practice dental hygiene.

107.30 (L) "Dentist" means an individual who is licensed by a state licensing authority to practice
107.31 dentistry.

108.1 (M) "Dentist and dental hygienist compact commission" or "commission" means a joint
108.2 government agency established by this compact comprised of each state that has enacted
108.3 the compact and a national administrative body comprised of a commissioner from each
108.4 state that has enacted the compact.

108.5 (N) "Encumbered license" means a license that a state licensing authority has limited in
108.6 any way other than through an alternative program.

108.7 (O) "Executive board" means the chair, vice chair, secretary, and treasurer and any other
108.8 commissioners as may be determined by commission rule or bylaw.

108.9 (P) "Jurisprudence requirement" means the assessment of an individual's knowledge of
108.10 the laws and rules governing the practice of dentistry or dental hygiene, as applicable, in a
108.11 state.

108.12 (Q) "License" means current authorization by a state, other than authorization pursuant
108.13 to a compact privilege, or other privilege, for an individual to practice as a dentist or dental
108.14 hygienist in that state.

108.15 (R) "Licensee" means an individual who holds an unrestricted license from a participating
108.16 state to practice as a dentist or dental hygienist in that state.

108.17 (S) "Model compact" means the model for the dentist and dental hygienist compact on
108.18 file with the council of state governments or other entity as designated by the commission.

108.19 (T) "Participating state" means a state that has enacted the compact and been admitted
108.20 to the commission in accordance with the provisions herein and commission rules.

108.21 (U) "Qualifying license" means a license that is not an encumbered license issued by a
108.22 participating state to practice dentistry or dental hygiene.

108.23 (V) "Remote state" means a participating state where a licensee who is not licensed as
108.24 a dentist or dental hygienist is exercising or seeking to exercise the compact privilege.

108.25 (W) "Rule" means a regulation promulgated by an entity that has the force of law.

108.26 (X) "Scope of practice" means the procedures, actions, and processes a dentist or dental
108.27 hygienist licensed in a state is permitted to undertake in that state and the circumstances
108.28 under which the licensee is permitted to undertake those procedures, actions, and processes.
108.29 Such procedures, actions, and processes and the circumstances under which they may be
108.30 undertaken may be established through means, including but not limited to statute,
108.31 regulations, case law, and other processes available to the state licensing authority or other
108.32 government agency.

(Y) "Significant investigative information" means information, records, and documents received or generated by a state licensing authority pursuant to an investigation for which a determination has been made that there is probable cause to believe that the licensee has violated a statute or regulation that is considered more than a minor infraction for which the state licensing authority could pursue adverse action against the licensee.

(Z) "State" means any state, commonwealth, district, or territory of the United States of America that regulates the practices of dentistry and dental hygiene.

(AA) "State licensing authority" means an agency or other entity of a state that is responsible for the licensing and regulation of dentists or dental hygienists.

ARTICLE III

STATE PARTICIPATION IN THE COMPACT

(A) In order to join the compact and thereafter continue as a participating state, a state must:

(1) enact a compact that is not materially different from the model compact as determined in accordance with commission rules;

(2) participate fully in the commission's data system;

(3) have a mechanism in place for receiving and investigating complaints about its licensees and license applicants;

(4) notify the commission, in compliance with the terms of the compact and commission rules, of any adverse action or the availability of significant investigative information regarding a licensee and license applicant;

(5) fully implement a criminal background check requirement, within a time frame established by commission rule, by receiving the results of a qualifying criminal background check;

(6) comply with the commission rules applicable to a participating state;

(7) accept the national board examinations of the joint commission on national dental examinations or another examination accepted by commission rule as a licensure examination;

(8) accept for licensure that applicants for a dentist license graduate from a predoctoral dental education program accredited by the Commission on Dental Accreditation, or another accrediting agency recognized by the United States Department of Education for the

110.1 accreditation of dentistry and dental hygiene education programs, leading to the Doctor of
110.2 Dental Surgery (D.D.S.) or Doctor of Dental Medicine (D.M.D.) degree;

110.3 (9) accept for licensure that applicants for a dental hygienist license graduate from a
110.4 dental hygiene education program accredited by the Commission on Dental Accreditation
110.5 or another accrediting agency recognized by the United States Department of Education for
110.6 the accreditation of dentistry and dental hygiene education programs;

110.7 (10) require for licensure that applicants successfully complete a clinical assessment;

110.8 (11) have continuing professional development requirements as a condition for license
110.9 renewal; and

110.10 (12) pay a participation fee to the commission as established by commission rule.

110.11 (B) Providing alternative pathways for an individual to obtain an unrestricted license
110.12 does not disqualify a state from participating in the compact.

110.13 (C) When conducting a criminal background check, the state licensing authority shall:

110.14 (1) consider that information in making a licensure decision;

110.15 (2) maintain documentation of completion of the criminal background check and
110.16 background check information to the extent allowed by state and federal law; and

110.17 (3) report to the commission whether it has completed the criminal background check
110.18 and whether the individual was granted or denied a license.

110.19 (D) A licensee of a participating state who has a qualifying license in that state and does
110.20 not hold an encumbered license in any other participating state, shall be issued a compact
110.21 privilege in a remote state in accordance with the terms of the compact and commission
110.22 rules. If a remote state has a jurisprudence requirement a compact privilege will not be
110.23 issued to the licensee unless the licensee has satisfied the jurisprudence requirement.

110.24 ARTICLE IV

110.25 COMPACT PRIVILEGE

110.26 (A) To obtain and exercise the compact privilege under the terms and provisions of the
110.27 compact, the licensee shall:

110.28 (1) have a qualifying license as a dentist or dental hygienist in a participating state;

110.29 (2) be eligible for a compact privilege in any remote state in accordance with (D), (G),
110.30 and (H) of this article;

110.31 (3) submit to an application process whenever the licensee is seeking a compact privilege;

- 111.1 (4) pay any applicable commission and remote state fees for a compact privilege in the
111.2 remote state;
- 111.3 (5) meet any jurisprudence requirement established by a remote state in which the licensee
111.4 is seeking a compact privilege;
- 111.5 (6) have passed a National Board Examination of the Joint Commission on National
111.6 Dental Examinations or another examination accepted by commission rule;
- 111.7 (7) for a dentist, have graduated from a predoctoral dental education program accredited
111.8 by the Commission on Dental Accreditation, or another accrediting agency recognized by
111.9 the United States Department of Education for the accreditation of dentistry and dental
111.10 hygiene education programs, leading to the Doctor of Dental Surgery (D.D.S.) or Doctor
111.11 of Dental Medicine (D.M.D.) degree;
- 111.12 (8) for a dental hygienist, have graduated from a dental hygiene education program
111.13 accredited by the Commission on Dental Accreditation or another accrediting agency
111.14 recognized by the United States Department of Education for the accreditation of dentistry
111.15 and dental hygiene education programs;
- 111.16 (9) have successfully completed a clinical assessment for licensure;
- 111.17 (10) report to the commission adverse action taken by any nonparticipating state when
111.18 applying for a compact privilege and, otherwise, within 30 days from the date the adverse
111.19 action is taken;
- 111.20 (11) report to the commission when applying for a compact privilege the address of the
111.21 licensee's primary residence and thereafter immediately report to the commission any change
111.22 in the address of the licensee's primary residence; and
- 111.23 (12) consent to accept service of process by mail at the licensee's primary residence on
111.24 record with the commission with respect to any action brought against the licensee by the
111.25 commission or a participating state, and consent to accept service of a subpoena by mail at
111.26 the licensee's primary residence on record with the commission with respect to any action
111.27 brought or investigation conducted by the commission or a participating state.
- 111.28 (B) The licensee must comply with the requirements of (A) of this article to maintain
111.29 the compact privilege in the remote state. If those requirements are met, the compact privilege
111.30 will continue as long as the licensee maintains a qualifying license in the state through which
111.31 the licensee applied for the compact privilege and pays any applicable compact privilege
111.32 renewal fees.

112.1 (C) A licensee providing dentistry or dental hygiene in a remote state under the compact
112.2 privilege shall function within the scope of practice authorized by the remote state for a
112.3 dentist or dental hygienist licensed in that state.

112.4 (D) A licensee providing dentistry or dental hygiene pursuant to a compact privilege in
112.5 a remote state is subject to that state's regulatory authority. A remote state may, in accordance
112.6 with due process and that state's laws, by adverse action revoke or remove a licensee's
112.7 compact privilege in the remote state for a specific period of time and impose fines or take
112.8 any other necessary actions to protect the health and safety of its citizens. If a remote state
112.9 imposes an adverse action against a compact privilege that limits the compact privilege,
112.10 that adverse action applies to all compact privileges in all remote states. A licensee whose
112.11 compact privilege in a remote state is removed for a specified period of time is not eligible
112.12 for a compact privilege in any other remote state until the specific time for removal of the
112.13 compact privilege has passed and all encumbrance requirements are satisfied.

112.14 (E) If a license in a participating state is an encumbered license, the licensee shall lose
112.15 the compact privilege in a remote state and shall not be eligible for a compact privilege in
112.16 any remote state until the license is no longer encumbered.

112.17 (F) Once an encumbered license in a participating state is restored to good standing, the
112.18 licensee must meet the requirements of (A) of this article to obtain a compact privilege in
112.19 a remote state.

112.20 (G) If a licensee's compact privilege in a remote state is removed by the remote state,
112.21 the individual shall lose or be ineligible for the compact privilege in any remote state until
112.22 the following occur:

112.23 (1) the specific period of time for which the compact privilege was removed has ended;
112.24 and

112.25 (2) all conditions for removal of the compact privilege have been satisfied.

112.26 (H) Once the requirements of (G) of this article have been met, the licensee must meet
112.27 the requirements in (A) of this article to obtain a compact privilege in a remote state.

112.28 ARTICLE V

112.29 ACTIVE MILITARY MEMBER OR THEIR SPOUSES

112.30 An active military member and their spouse shall not be required to pay to the commission
112.31 for a compact privilege the fee otherwise charged by the commission. If a remote state
112.32 chooses to charge a fee for a compact privilege, it may choose to charge a reduced fee or
112.33 no fee to an active military member and their spouse for a compact privilege.

113.1 ARTICLE VI

113.2 ADVERSE ACTIONS

113.3 (A) A participating state in which a licensee is licensed shall have exclusive authority
113.4 to impose adverse action against the qualifying license issued by that participating state.

113.5 (B) A participating state may take adverse action based on the significant investigative
113.6 information of a remote state, so long as the participating state follows its own procedures
113.7 for imposing adverse action.

113.8 (C) Nothing in this compact shall override a participating state's decision that participation
113.9 in an alternative program may be used in lieu of adverse action and that such participation
113.10 shall remain nonpublic if required by the participating state's laws. Participating states must
113.11 require licensees who enter any alternative program in lieu of discipline to agree not to
113.12 practice pursuant to a compact privilege in any other participating state during the term of
113.13 the alternative program without prior authorization from such other participating state.

113.14 (D) Any participating state in which a licensee is applying to practice or is practicing
113.15 pursuant to a compact privilege may investigate actual or alleged violations of the statutes
113.16 and regulations authorizing the practice of dentistry or dental hygiene in any other
113.17 participating state in which the dentist or dental hygienist holds a license or compact
113.18 privilege.

113.19 (E) A remote state shall have the authority to:

113.20 (1) take adverse actions as set forth in article IV, (D), against a licensee's compact
113.21 privilege in the state;

113.22 (2) in furtherance of its rights and responsibilities under the compact and the commission's
113.23 rules issue subpoenas for both hearings and investigations that require the attendance and
113.24 testimony of witnesses, and the production of evidence. Subpoenas issued by a state licensing
113.25 authority in a participating state for the attendance and testimony of witnesses, or the
113.26 production of evidence from another participating state, shall be enforced in the latter state
113.27 by any court of competent jurisdiction, according to the practice and procedure of that court
113.28 applicable to subpoenas issued in proceedings pending before it. The issuing authority shall
113.29 pay any witness fees, travel expenses, mileage, and other fees required by the service statutes
113.30 of the state where the witnesses or evidence are located; and

113.31 (3) if otherwise permitted by state law, recover from the licensee the costs of
113.32 investigations and disposition of cases resulting from any adverse action taken against that
113.33 licensee.

(F) Joint Investigations:

(1) In addition to the authority granted to a participating state by its dentist or dental hygienist licensure act or other applicable state law, a participating state may jointly investigate licensees with other participating states.

(2) Participating states shall share any significant investigative information, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the compact.

(G) Authority to Continue Investigation:

(1) After a licensee's compact privilege in a remote state is terminated, the remote state may continue an investigation of the licensee that began when the licensee had a compact privilege in that remote state.

(2) If the investigation yields what would be significant investigative information had the licensee continued to have a compact privilege in that remote state, the remote state shall report the presence of such information to the data system as required by article VIII, (B), (6), as if it was significant investigative information.

ARTICLE VII

ESTABLISHMENT AND OPERATION OF THE COMMISSION

(A) The compact participating states hereby create and establish a joint government agency whose membership consists of all participating states that have enacted the compact. The commission is an instrumentality of the participating states acting jointly and not an instrumentality of any one state. The commission shall come into existence on or after the effective date of the compact as set forth in article XI, (A).

(B) Participation, Voting, and Meetings:

(1) Each participating state shall have and be limited to one commissioner selected by that participating state's state licensing authority or, if the state has more than one state licensing authority, selected collectively by the state licensing authorities.

(2) The commissioner shall be a member or designee of such authority or authorities.

(3) The commission may by rule or bylaw establish a term of office for commissioners and may by rule or bylaw establish term limits.

(4) The commission may recommend to a state licensing authority or authorities, as applicable, removal or suspension of an individual as the state's commissioner.

115.1 (5) A participating state's state licensing authority or authorities, as applicable, shall fill
115.2 any vacancy of its commissioner on the commission within 60 days of the vacancy.

115.3 (6) Each commissioner shall be entitled to one vote on all matters that are voted upon
115.4 by the commission.

115.5 (7) The commission shall meet at least once during each calendar year. Additional
115.6 meetings may be held as set forth in the bylaws. The commission may meet by
115.7 telecommunication, video conference, or other similar electronic means.

115.8 (C) The commission shall have the following powers:

115.9 (1) establish the fiscal year of the commission;

115.10 (2) establish a code of conduct and conflict of interest policies;

115.11 (3) adopt rules and bylaws;

115.12 (4) maintain its financial records in accordance with the bylaws;

115.13 (5) meet and take such actions as are consistent with the provisions of this compact, the
115.14 commission's rules, and the bylaws;

115.15 (6) initiate and conclude legal proceedings or actions in the name of the commission,
115.16 provided that the standing of any state licensing authority to sue or be sued under applicable
115.17 law shall not be affected;

115.18 (7) maintain and certify records and information provided to a participating state as the
115.19 authenticated business records of the commission, and designate a person to do so on the
115.20 commission's behalf;

115.21 (8) purchase and maintain insurance and bonds;

115.22 (9) borrow, accept, or contract for services of personnel, including but not limited to
115.23 employees of a participating state;

115.24 (10) conduct an annual financial review;

115.25 (11) hire employees, elect or appoint officers, fix compensation, define duties, grant
115.26 such individuals appropriate authority to carry out the purposes of the compact, and establish
115.27 the commission's personnel policies and programs relating to conflicts of interest,
115.28 qualifications of personnel, and other related personnel matters;

115.29 (12) as set forth in the commission rules, charge a fee to a licensee for the grant of a
115.30 compact privilege in a remote state and thereafter, as may be established by commission
115.31 rule, charge the licensee a compact privilege renewal fee for each renewal period in which

- 116.1 that licensee exercises or intends to exercise the compact privilege in that remote state.
- 116.2 Nothing herein shall be construed to prevent a remote state from charging a licensee a fee
- 116.3 for a compact privilege or renewals of a compact privilege, or a fee for the jurisprudence
- 116.4 requirement if the remote state imposes such a requirement for the grant of a compact
- 116.5 privilege;
- 116.6 (13) accept any and all appropriate gifts, donations, grants of money, other sources of
- 116.7 revenue, equipment, supplies, materials, and services, and receive, utilize, and dispose of
- 116.8 the same; provided that at all times the commission shall avoid any appearance of impropriety
- 116.9 and conflict of interest;
- 116.10 (14) lease, purchase, retain, own, hold, improve, or use any property real, personal, or
- 116.11 mixed, or any undivided interest therein;
- 116.12 (15) sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of
- 116.13 any property real, personal, or mixed;
- 116.14 (16) establish a budget and make expenditures;
- 116.15 (17) borrow money;
- 116.16 (18) appoint committees, including standing committees, which may be composed of
- 116.17 members, state regulators, state legislators or their representatives, and consumer
- 116.18 representatives, and such other interested persons as may be designated in this compact and
- 116.19 the bylaws;
- 116.20 (19) provide and receive information from, and cooperate with, law enforcement agencies;
- 116.21 (20) elect a chair, vice chair, secretary, and treasurer and such other officers of the
- 116.22 commission as provided in the commission's bylaws;
- 116.23 (21) establish and elect an executive board;
- 116.24 (22) adopt and provide to the participating states an annual report;
- 116.25 (23) determine whether a state's enacted compact is materially different from the model
- 116.26 compact language such that the state would not qualify for participation in the compact;
- 116.27 and
- 116.28 (24) perform such other functions as may be necessary or appropriate to achieve the
- 116.29 purposes of this compact.
- 116.30 (D) Meetings of the Commission:

117.1 (1) All meetings of the commission that are not closed pursuant to (D)(4) of this article
117.2 shall be open to the public. Notice of public meetings shall be posted on the commission's
117.3 website at least 30 days prior to the public meeting.

117.4 (2) Notwithstanding (D)(1) of this article, the commission may convene an emergency
117.5 public meeting by providing at least 24 hours prior notice on the commission's website, and
117.6 any other means as provided in the commission's rules, for any of the reasons it may dispense
117.7 with notice of proposed rulemaking under article IX, (L). The commission's legal counsel
117.8 shall certify that one of the reasons justifying an emergency public meeting has been met.

117.9 (3) Notice of all commission meetings shall provide the time, date, and location of the
117.10 meeting, and if the meeting is to be held or accessible via telecommunication, video
117.11 conference, or other electronic means, the notice shall include the mechanism for access to
117.12 the meeting through such means.

117.13 (4) The commission may convene in a closed, nonpublic meeting for the commission
117.14 to receive legal advice or to discuss:

117.15 (i) noncompliance of a participating state with its obligations under the compact;

117.16 (ii) the employment, compensation, discipline, or other matters, practices, or procedures
117.17 related to specific employees or other matters related to the commission's internal personnel
117.18 practices and procedures;

117.19 (iii) current or threatened discipline of a licensee or compact privilege holder by the
117.20 commission or by a participating state's licensing authority;

117.21 (iv) current, threatened, or reasonably anticipated litigation;

117.22 (v) negotiation of contracts for the purchase, lease, or sale of goods, services, or real
117.23 estate;

117.24 (vi) accusing any person of a crime or formally censuring any person;

117.25 (vii) trade secrets or commercial or financial information that is privileged or confidential;

117.26 (viii) information of a personal nature where disclosure would constitute a clearly
117.27 unwarranted invasion of personal privacy;

117.28 (ix) investigative records compiled for law enforcement purposes;

117.29 (x) information related to any investigative reports prepared by or on behalf of or for
117.30 use of the commission or other committee charged with responsibility of investigation or
117.31 determination of compliance issues pursuant to the compact;

118.1 (xi) legal advice;

118.2 (xii) matters specifically exempted from disclosure to the public by federal or participating
118.3 state law; and

118.4 (xiii) other matters as promulgated by the commission by rule.

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

118.8 (6) The commission shall keep minutes that fully and clearly describe all matters
118.9 discussed in a meeting and shall provide a full and accurate summary of actions taken, and
118.10 the reasons therefore, including a description of the views expressed. All documents
118.11 considered in connection with an action shall be identified in such minutes. All minutes and
118.12 documents of a closed meeting shall remain under seal, subject to release only by a majority
118.13 vote of the commission or order of a court of competent jurisdiction.

118.14 (E) Financing of the Commission:

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

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

118.19 (3) The commission may levy on and collect an annual assessment from each participating
118.20 state and impose fees on licensees of participating states when a compact privilege is granted
118.21 to cover the cost of the operations and activities of the commission and its staff, which must
118.22 be in a total amount sufficient to cover its annual budget as approved each fiscal year for
118.23 which sufficient revenue is not provided by other sources. The aggregate annual assessment
118.24 amount for participating states shall be allocated based upon a formula that the commission
118.25 shall promulgate by rule.

118.26 (4) The commission shall not incur obligations of any kind prior to securing the funds
118.27 adequate to meet the same; nor shall the commission pledge the credit of any participating
118.28 state, except by and with the authority of the participating state.

118.29 (5) The commission shall keep accurate accounts of all receipts and disbursements. The
118.30 receipts and disbursements of the commission shall be subject to the financial review and
118.31 accounting procedures established under the commission's bylaws. All receipts and
118.32 disbursements of funds handled by the commission shall be subject to an annual financial

119.1 review by a certified or licensed public accountant, and the report of the financial review
119.2 shall be included in and become part of the annual report of the commission.

119.3 (F) The Executive Board:

119.4 (1) The executive board shall have the power to act on behalf of the commission according
119.5 to the terms of this compact. The powers, duties, and responsibilities of the executive board
119.6 shall include:

119.7 (i) overseeing the day-to-day activities of the administration of the compact including
119.8 compliance with the provisions of the compact and the commission's rules and bylaws;

119.9 (ii) recommending to the commission changes to the rules or bylaws, changes to this
119.10 compact legislation, fees charged to compact participating states, fees charged to licensees,
119.11 and other fees;

119.12 (iii) ensuring compact administration services are appropriately provided, including by
119.13 contract;

119.14 (iv) preparing and recommending the budget;

119.15 (v) maintaining financial records on behalf of the commission;

119.16 (vi) monitoring compact compliance of participating states and providing compliance
119.17 reports to the commission;

119.18 (vii) establishing additional committees as necessary;

119.19 (viii) exercising the powers and duties of the commission during the interim between
119.20 commission meetings, except for adopting or amending rules, adopting or amending bylaws,
119.21 and exercising any other powers and duties expressly reserved to the commission by rule
119.22 or bylaw; and

119.23 (ix) other duties as provided in the rules or bylaws of the commission.

119.24 (2) The executive board shall be composed of up to seven members:

119.25 (i) the chair, vice chair, secretary, and treasurer of the commission and any other members
119.26 of the commission who serve on the executive board shall be voting members of the executive
119.27 board; and

119.28 (ii) other than the chair, vice chair, secretary, and treasurer, the commission may elect
119.29 up to three voting members from the current membership of the commission.

119.30 (3) The commission may remove any member of the executive board as provided in the
119.31 commission's bylaws.

120.1 (4) The executive board shall meet at least annually.

120.2 (i) An executive board meeting at which it takes or intends to take formal action on a
120.3 matter shall be open to the public, except that the executive board may meet in a closed,
120.4 nonpublic session of a public meeting when dealing with any of the matters covered under
120.5 (D)(4) of this article.

120.6 (ii) The executive board shall give five business days' notice of its public meetings,
120.7 posted on its website and as it may otherwise determine to provide notice to persons with
120.8 an interest in the public matters the executive board intends to address at those meetings.

120.9 (5) The executive board may hold an emergency meeting when acting for the commission
120.10 to:

120.11 (i) meet an imminent threat to public health, safety, or welfare;

120.12 (ii) prevent a loss of commission or participating state funds; or

120.13 (iii) protect public health and safety.

120.14 (G) Qualified Immunity, Defense, and Indemnification:

120.15 (1) The members, officers, executive director, employees, and representatives of the
120.16 commission shall be immune from suit and liability, both personally and in their official
120.17 capacity, for any claim for damage to or loss of property or personal injury or other civil
120.18 liability caused by or arising out of any actual or alleged act, error, or omission that occurred,
120.19 or that the person against whom the claim is made had a reasonable basis for believing
120.20 occurred within the scope of commission employment, duties, or responsibilities; provided
120.21 that nothing in this paragraph shall be construed to protect any such person from suit or
120.22 liability for any damage, loss, injury, or liability caused by the intentional or willful or
120.23 wanton misconduct of that person. The procurement of insurance of any type by the
120.24 commission shall not in any way compromise or limit the immunity granted hereunder.

120.25 (2) The commission shall defend any member, officer, executive director, employee, or
120.26 representative of the commission in any civil action seeking to impose liability arising out
120.27 of any actual or alleged act, error, or omission that occurred within the scope of commission
120.28 employment, duties, or responsibilities, or as determined by the commission that the person
120.29 against whom the claim is made had a reasonable basis for believing occurred within the
120.30 scope of commission employment, duties, or responsibilities; provided that nothing herein
120.31 shall be construed to prohibit that person from retaining their own counsel at their own
120.32 expense; and provided further that the actual or alleged act, error, or omission did not result
120.33 from that person's intentional or willful or wanton misconduct.

121.1 (3) Notwithstanding (G)(1) of this article, should any member, officer, executive director,
121.2 employee, or representative of the commission be held liable for the amount of any settlement
121.3 or judgment arising out of any actual or alleged act, error, or omission that occurred within
121.4 the scope of that individual's employment, duties, or responsibilities for the commission,
121.5 or that the person to whom that individual is liable had a reasonable basis for believing
121.6 occurred within the scope of the individual's employment, duties, or responsibilities for the
121.7 commission, the commission shall indemnify and hold harmless such individual; provided
121.8 that the actual or alleged act, error, or omission did not result from the intentional or willful
121.9 or wanton misconduct of the individual.

121.10 (4) Nothing herein shall be construed as a limitation on the liability of any licensee for
121.11 professional malpractice or misconduct, which shall be governed solely by any other
121.12 applicable state laws.

121.13 (5) Nothing in this compact shall be interpreted to waive or otherwise abrogate a
121.14 participating state's state action immunity or state action affirmative defense with respect
121.15 to antitrust claims under the Sherman Act, Clayton Act, or any other state or federal antitrust
121.16 or anticompetitive law or regulation.

121.17 (6) Nothing in this compact shall be construed to be a waiver of sovereign immunity by
121.18 the participating states or by the commission.

121.19 (H) Notwithstanding paragraph (G), clause (1), of this article, the liability of the executive
121.20 director, employees, or representatives of the interstate commission, acting within the scope
121.21 of their employment or duties, may not exceed the limits of liability set forth under the
121.22 constitution and laws of this state for state officials, employees, and agents. This paragraph
121.23 expressly incorporates section 3.736, and neither expands nor limits the rights and remedies
121.24 provided under that statute.

121.25 (I) Except for a claim alleging a violation of this compact, a claim against the commission,
121.26 its executive director, employees, or representatives alleging a violation of the constitution
121.27 and laws of this state may be brought in any county where the plaintiff resides. Nothing in
121.28 this paragraph creates a private right of action.

121.29 (J) Nothing in this compact shall be construed as a limitation on the liability of any
121.30 licensee for professional malpractice or misconduct, which shall be governed solely by any
121.31 other applicable state laws.

ARTICLE VIII

DATA SYSTEM

122.1 (A) The commission shall provide for the development, maintenance, operation, and
122.2 utilization of a coordinated database and reporting system containing licensure, adverse
122.3 action, and the presence of significant investigative information on all licensees and
122.4 applicants for a license in participating states.

122.5 (B) Notwithstanding any other provision of state law to the contrary, a participating state
122.6 shall submit a uniform data set to the data system on all individuals to whom this compact
122.7 is applicable as required by the rules of the commission, including:

122.8 (1) identifying information;

122.9 (2) licensure data;

122.10 (3) adverse actions against a licensee, license applicant, or compact privilege and
122.11 information related thereto;

122.12 (4) nonconfidential information related to alternative program participation, the beginning
122.13 and ending dates of such participation, and other information related to such participation;

122.14 (5) any denial of an application for licensure, and the reasons for such denial, excluding
122.15 the reporting of any criminal history record information where prohibited by law;

122.16 (6) the presence of significant investigative information; and

122.17 (7) other information that may facilitate the administration of this compact or the
122.18 protection of the public, as determined by the rules of the commission.

122.19 (C) The records and information provided to a participating state pursuant to this compact
122.20 or through the data system, when certified by the commission or an agent thereof, shall
122.21 constitute the authenticated business records of the commission, and shall be entitled to any
122.22 associated hearsay exception in any relevant judicial, quasi-judicial, or administrative
122.23 proceedings in a participating state.

122.24 (D) Significant investigative information pertaining to a licensee in any participating
122.25 state will only be available to other participating states.

122.26 (E) It is the responsibility of the participating states to monitor the database to determine
122.27 whether adverse action has been taken against a licensee or license applicant. Adverse action
122.28 information pertaining to a licensee or license applicant in any participating state will be
122.29 available to any other participating state.

122.30 (F) Participating states contributing information to the data system may designate
122.31 information that may not be shared with the public without the express permission of the
122.32 contributing state.

123.1 (G) Any information submitted to the data system that is subsequently expunged pursuant
123.2 to federal law or the laws of the participating state contributing the information shall be
123.3 removed from the data system.

123.4 ARTICLE IX

123.5 RULEMAKING

123.6 (A) The commission shall promulgate reasonable rules in order to effectively and
123.7 efficiently implement and administer the purposes and provisions of the compact. A
123.8 commission rule shall be invalid and have no force or effect only if a court of competent
123.9 jurisdiction holds that the rule is invalid because the commission exercised its rulemaking
123.10 authority in a manner that is beyond the scope and purposes of the compact, or the powers
123.11 granted hereunder, or based upon another applicable standard of review.

123.12 (B) The rules of the commission shall have the force of law in each participating state,
123.13 provided that where the rules of the commission conflict with the laws of the participating
123.14 state that establish the participating state's scope of practice as held by a court of competent
123.15 jurisdiction, the rules of the commission shall be ineffective in that state to the extent of the
123.16 conflict.

123.17 (C) The commission shall exercise its rulemaking powers pursuant to the criteria set
123.18 forth in this article and the rules adopted thereunder. Rules shall become binding as of the
123.19 date specified by the commission for each rule.

123.20 (D) If a majority of the legislatures of the participating states rejects a commission rule
123.21 or portion of a commission rule, by enactment of a statute or resolution in the same manner
123.22 used to adopt the compact, within four years of the date of adoption of the rule, then such
123.23 rule shall have no further force and effect in any participating state or to any state applying
123.24 to participate in the compact.

123.25 (E) Rules shall be adopted at a regular or special meeting of the commission.

123.26 (F) Prior to adoption of a proposed rule, the commission shall hold a public hearing and
123.27 allow persons to provide oral and written comments, data, facts, opinions, and arguments.

123.28 (G) Prior to adoption of a proposed rule by the commission, and at least 30 days in
123.29 advance of the meeting at which the commission will hold a public hearing on the proposed
123.30 rule, the commission shall provide a notice of proposed rulemaking:

123.31 (1) on the website of the commission or other publicly accessible platform;

124.1 (2) to persons who have requested notice of the commission's notices of proposed
124.2 rulemaking; and

124.3 (3) in such other ways as the commission may by rule specify.

124.4 (H) The notice of proposed rulemaking shall include:

124.5 (1) the time, date, and location of the public hearing at which the commission will hear
124.6 public comments on the proposed rule and, if different, the time, date, and location of the
124.7 meeting where the commission will consider and vote on the proposed rule;

124.8 (2) if the hearing is held via telecommunication, video conference, or other electronic
124.9 means, the commission shall include the mechanism for access to the hearing in the notice
124.10 of proposed rulemaking;

124.11 (3) the text of the proposed rule and the reason therefor;

124.12 (4) a request for comments on the proposed rule from any interested person; and

124.13 (5) the manner in which interested persons may submit written comments.

124.14 (I) All hearings will be recorded. A copy of the recording and all written comments and
124.15 documents received by the commission in response to the proposed rule shall be available
124.16 to the public.

124.17 (J) Nothing in this article shall be construed as requiring a separate hearing on each
124.18 commission rule. Rules may be grouped for the convenience of the commission at hearings
124.19 required by this article.

124.20 (K) The commission shall, by majority vote of all commissioners, take final action on
124.21 the proposed rule based on the rulemaking record.

124.22 (1) The commission may adopt changes to the proposed rule provided the changes do
124.23 not enlarge the original purpose of the proposed rule.

124.24 (2) The commission shall provide an explanation of the reasons for substantive changes
124.25 made to the proposed rule as well as reasons for substantive changes not made that were
124.26 recommended by commenters.

124.27 (3) The commission shall determine a reasonable effective date for the rule. Except for
124.28 an emergency as provided in (L) of this article, the effective date of the rule shall be no
124.29 sooner than 30 days after the commission issuing the notice that it adopted or amended the
124.30 rule.

125.1 (L) Upon determination that an emergency exists, the commission may consider and
125.2 adopt an emergency rule with 24 hours' notice, with opportunity to comment, provided that
125.3 the usual rulemaking procedures provided in the compact and in this article shall be
125.4 retroactively applied to the rule as soon as reasonably possible, in no event later than 90
125.5 days after the effective date of the rule. For the purposes of this provision, an emergency
125.6 rule is one that must be adopted immediately in order to:

125.7 (1) meet an imminent threat to public health, safety, or welfare;

125.8 (2) prevent a loss of commission or participating state funds;

125.9 (3) meet a deadline for the promulgation of a rule that is established by federal law or
125.10 rule; or

125.11 (4) protect public health and safety.

125.12 (M) The commission or an authorized committee of the commission may direct revisions
125.13 to a previously adopted rule for purposes of correcting typographical errors, errors in format,
125.14 errors in consistency, or grammatical errors. Public notice of any revisions shall be posted
125.15 on the website of the commission. The revision shall be subject to challenge by any person
125.16 for a period of 30 days after posting. The revision may be challenged only on grounds that
125.17 the revision results in a material change to a rule. A challenge shall be made in writing and
125.18 delivered to the commission prior to the end of the notice period. If no challenge is made,
125.19 the revision will take effect without further action. If the revision is challenged, the revision
125.20 may not take effect without the approval of the commission.

125.21 (N) No participating state's rulemaking requirements shall apply under this compact.

125.22 ARTICLE X

125.23 OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

125.24 (A) Oversight:

125.25 (1) The executive and judicial branches of state government in each participating state
125.26 shall enforce this compact and take all actions necessary and appropriate to implement the
125.27 compact.

125.28 (2) Except as provided under article VII, paragraph (I), venue is proper and judicial
125.29 proceedings by or against the commission shall be brought solely and exclusively in a court
125.30 of competent jurisdiction where the principal office of the commission is located. The
125.31 commission may waive venue and jurisdictional defenses to the extent it adopts or consents
125.32 to participate in alternative dispute resolution proceedings. Nothing herein shall affect or

126.1 limit the selection or propriety of venue in any action against a licensee for professional
126.2 malpractice, misconduct, or any such similar matter.

126.3 (3) The commission shall be entitled to receive service of process in any proceeding
126.4 regarding the enforcement or interpretation of the compact or commission rule and shall
126.5 have standing to intervene in such a proceeding for all purposes. Failure to provide the
126.6 commission service of process shall render a judgment or order void as to the commission,
126.7 this compact, or the promulgated rules.

126.8 (B) Default, Technical Assistance, and Termination:

126.9 (1) If the commission determines that a participating state has defaulted in the
126.10 performance of its obligations or responsibilities under this compact or the promulgated
126.11 rules, the commission shall provide written notice to the defaulting state. The notice of
126.12 default shall describe the default, the proposed means of curing the default, and any other
126.13 action that the commission may take, and shall offer training and specific technical assistance
126.14 regarding the default.

126.15 (2) The commission shall provide a copy of the notice of default to the other participating
126.16 states.

126.17 (C) If a state in default fails to cure the default, the defaulting state may be terminated
126.18 from the compact upon an affirmative vote of a majority of the commissioners, and all
126.19 rights, privileges, and benefits conferred on that state by this compact may be terminated
126.20 on the effective date of termination. A cure of the default does not relieve the offending
126.21 state of obligations or liabilities incurred during the period of default.

126.22 (D) Termination of participation in the compact shall be imposed only after all other
126.23 means of securing compliance have been exhausted. Notice of intent to suspend or terminate
126.24 shall be given by the commission to the governor, the majority and minority leaders of the
126.25 defaulting state's legislature, the defaulting state's state licensing authority or authorities,
126.26 as applicable, and each of the participating states' state licensing authority or authorities, as
126.27 applicable.

126.28 (E) A state that has been terminated is responsible for all assessments, obligations, and
126.29 liabilities incurred through the effective date of termination, including obligations that
126.30 extend beyond the effective date of termination.

126.31 (F) Upon the termination of a state's participation in this compact, that state shall
126.32 immediately provide notice to all licensees of the state, including licensees of other
126.33 participating states issued a compact privilege to practice within that state, of such

127.1 termination. The terminated state shall continue to recognize all compact privileges then in
127.2 effect in that state for a minimum of 180 days after the date of said notice of termination.

127.3 (G) The commission shall not bear any costs related to a state that is found to be in
127.4 default or that has been terminated from the compact, unless agreed upon in writing between
127.5 the commission and the defaulting state.

127.6 (H) The defaulting state may appeal the action of the commission by petitioning the
127.7 United States District Court for the District of Columbia or the federal district where the
127.8 commission has its principal offices. The prevailing party shall be awarded all costs of such
127.9 litigation, including reasonable attorney fees.

127.10 (I) Dispute Resolution:

127.11 (1) Upon request by a participating state, the commission shall attempt to resolve disputes
127.12 related to the compact that arise among participating states and between participating states
127.13 and nonparticipating states.

127.14 (2) The commission shall promulgate a rule providing for both mediation and binding
127.15 dispute resolution for disputes as appropriate.

127.16 (J) Enforcement:

127.17 (1) The commission, in the reasonable exercise of its discretion, shall enforce the
127.18 provisions of this compact and the commission's rules.

127.19 (2) By majority vote, the commission may initiate legal action against a participating
127.20 state in default in the United States District Court for the District of Columbia or the federal
127.21 district where the commission has its principal offices to enforce compliance with the
127.22 provisions of the compact and its promulgated rules. The relief sought may include both
127.23 injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing
127.24 party shall be awarded all costs of such litigation, including reasonable attorney fees. The
127.25 remedies herein shall not be the exclusive remedies of the commission. The commission
127.26 may pursue any other remedies available under federal or the defaulting participating state's
127.27 law.

127.28 (3) A participating state may initiate legal action against the commission in the United
127.29 States District Court for the District of Columbia or the federal district where the commission
127.30 has its principal offices to enforce compliance with the provisions of the compact and its
127.31 promulgated rules. The relief sought may include both injunctive relief and damages. In the
127.32 event judicial enforcement is necessary, the prevailing party shall be awarded all costs of
127.33 such litigation, including reasonable attorney fees.

128.1 (4) No individual or entity other than a participating state may enforce this compact
128.2 against the commission.

128.3 ARTICLE XI

128.4 EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT

128.5 (A) The compact shall come into effect on the date on which the compact statute is
128.6 enacted into law in the seventh participating state.

128.7 (1) On or after the effective date of the compact, the commission shall convene and
128.8 review the enactment of each of the states that enacted the compact prior to the commission
128.9 convening ("charter participating states") to determine if the statute enacted by each such
128.10 charter participating state is materially different than the model compact.

128.11 (i) A charter participating state whose enactment is found to be materially different from
128.12 the model compact shall be entitled to the default process set forth in article X.

128.13 (ii) If any participating state is later found to be in default, or is terminated or withdraws
128.14 from the compact, the commission shall remain in existence and the compact shall remain
128.15 in effect even if the number of participating states should be less than seven.

128.16 (2) Participating states enacting the compact subsequent to the charter participating states
128.17 shall be subject to the process set forth in article VII, (C)(23), to determine if their enactments
128.18 are materially different from the model compact and whether they qualify for participation
128.19 in the compact.

128.20 (3) All actions taken for the benefit of the commission or in furtherance of the purposes
128.21 of the administration of the compact prior to the effective date of the compact or the
128.22 commission coming into existence shall be considered to be actions of the commission
128.23 unless specifically repudiated by the commission.

128.24 (4) Any state that joins the compact subsequent to the commission's initial adoption of
128.25 the rules and bylaws shall be subject to the commission's rules and bylaws as they exist on
128.26 the date on which the compact becomes law in that state. Any rule that has been previously
128.27 adopted by the commission shall have the full force and effect of law on the day the compact
128.28 becomes law in that state.

128.29 (B) Any participating state may withdraw from this compact by enacting a statute
128.30 repealing that state's enactment of the compact.

128.31 (1) A participating state's withdrawal shall not take effect until 180 days after enactment
128.32 of the repealing statute.

(2) Withdrawal shall not affect the continuing requirement of the withdrawing state's licensing authority or authorities to comply with the investigative and adverse action reporting requirements of this compact prior to the effective date of withdrawal.

(3) Upon the enactment of a statute withdrawing from this compact, the state shall immediately provide notice of such withdrawal to all licensees within that state. Notwithstanding any subsequent statutory enactment to the contrary, such withdrawing state shall continue to recognize all compact privileges to practice within that state granted pursuant to this compact for a minimum of 180 days after the date of such notice of withdrawal.

(C) Nothing contained in this compact shall be construed to invalidate or prevent any licensure agreement or other cooperative arrangement between a participating state and a nonparticipating state that does not conflict with the provisions of this compact.

(D) This compact may be amended by the participating states. No amendment to this compact shall become effective and binding upon any participating state until it is enacted into the laws of all participating states.

ARTICLE XII

CONSTRUCTION AND SEVERABILITY

(A) This compact and the commission's rulemaking authority shall be liberally construed so as to effectuate the purposes and the implementation and administration of the compact. Provisions of the compact expressly authorizing or requiring the promulgation of rules shall not be construed to limit the commission's rulemaking authority solely for those purposes.

(B) The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is held by a court of competent jurisdiction to be contrary to the constitution of any participating state, a state seeking participation in the compact, or of the United States, or the applicability thereof to any government, agency, person, or circumstance is held to be unconstitutional by a court of competent jurisdiction, the validity of the remainder of this compact and the applicability thereof to any other government, agency, person, or circumstance shall not be affected thereby.

(C) Notwithstanding (B) of this article, the commission may deny a state's participation in the compact or, in accordance with the requirements of article X, (B), terminate a participating state's participation in the compact, if it determines that a constitutional requirement of a participating state is a material departure from the compact. Otherwise, if this compact shall be held to be contrary to the constitution of any participating state, the

130.1 compact shall remain in full force and effect as to the remaining participating states and in
130.2 full force and effect as to the participating state affected as to all severable matters.

130.3 ARTICLE XIII

130.4 CONSISTENT EFFECT AND CONFLICT WITH OTHER STATE LAWS

130.5 (A) Nothing herein shall prevent or inhibit the enforcement of any other law of a
130.6 participating state that is not inconsistent with the compact.

130.7 (B) Any laws, statutes, regulations, or other legal requirements in a participating state
130.8 in conflict with the compact are superseded to the extent of the conflict.

130.9 (C) All permissible agreements between the commission and the participating states are
130.10 binding in accordance with their terms.

130.11 ARTICLE 7

130.12 SOCIAL WORKERS

130.13 Section 1. [148E.40] TITLE.

130.14 Sections 148E.40 to 148E.55 shall be known and cited as the social work services
130.15 licensure compact.

130.16 Sec. 2. [148E.41] DEFINITIONS.

130.17 As used in this Compact, and except as otherwise provided, the following definitions
130.18 shall apply:

130.19 (1) "Active military member" means any individual with full-time duty status in the
130.20 active armed forces of the United States, including members of the National Guard and
130.21 Reserve.

130.22 (2) "Adverse action" means any administrative, civil, equitable, or criminal action
130.23 permitted by a state's laws which is imposed by a licensing authority or other authority
130.24 against a regulated social worker, including actions against an individual's license or
130.25 multistate authorization to practice such as revocation, suspension, probation, monitoring
130.26 of the licensee, limitation on the licensee's practice, or any other encumbrance on licensure
130.27 affecting a regulated social worker's authorization to practice, including issuance of a cease
130.28 and desist action.

130.29 (3) "Alternative program" means a nondisciplinary monitoring or practice remediation
130.30 process approved by a licensing authority to address practitioners with an impairment.

131.1 (4) "Charter member states" means member states who have enacted legislation to adopt
131.2 this Compact where such legislation predates the effective date of this Compact as described
131.3 in section 148E.53.

131.4 (5) "Compact" means sections 148E.40 to 148E.55.

131.5 (6) "Compact Commission" or "Commission" means the government agency whose
131.6 membership consists of all States that have enacted this Compact, which is known as the
131.7 Social Work Licensure Compact Commission, as described in section 148E.49, and which
131.8 shall operate as an instrumentality of the member states.

131.9 (7) "Current significant investigative information" means:

131.10 (i) investigative information that a licensing authority, after a preliminary inquiry that
131.11 includes notification and an opportunity for the regulated social worker to respond, has
131.12 reason to believe is not groundless and, if proved true, would indicate more than a minor
131.13 infraction as may be defined by the Commission; or

131.14 (ii) investigative information that indicates that the regulated social worker represents
131.15 an immediate threat to public health and safety, as may be defined by the Commission,
131.16 regardless of whether the regulated social worker has been notified and has had an
131.17 opportunity to respond.

131.18 (8) "Data system" means a repository of information about licensees, including continuing
131.19 education, examinations, licensure, current significant investigative information, disqualifying
131.20 events, multistate licenses, and adverse action information or other information as required
131.21 by the Commission.

131.22 (9) "Disqualifying event" means any adverse action or incident which results in an
131.23 encumbrance that disqualifies or makes the licensee ineligible to obtain, retain, or renew a
131.24 multistate license.

131.25 (10) "Domicile" means the jurisdiction in which the licensee resides and intends to
131.26 remain indefinitely.

131.27 (11) "Encumbrance" means a revocation or suspension of, or any limitation on, the full
131.28 and unrestricted practice of social work licensed and regulated by a licensing authority.

131.29 (12) "Executive Committee" means a group of delegates elected or appointed to act on
131.30 behalf of, and within the powers granted to them by, the Compact and Commission.

131.31 (13) "Home state" means the member state that is the licensee's primary domicile.

132.1 (14) "Impairment" means a condition that may impair a practitioner's ability to engage
132.2 in full and unrestricted practice as a regulated social worker without some type of intervention
132.3 and may include alcohol and drug dependence, mental health impairment, and neurological
132.4 or physical impairments.

132.5 (15) "Licensee" means an individual who currently holds a license from a state to practice
132.6 as a regulated social worker.

132.7 (16) "Licensing authority" means the board or agency of a member state, or equivalent,
132.8 that is responsible for the licensing and regulation of regulated social workers.

132.9 (17) "Member state" means a state, commonwealth, district, or territory of the United
132.10 States of America that has enacted this Compact.

132.11 (18) "Multistate authorization to practice" means a legally authorized privilege to practice,
132.12 which is equivalent to a license, associated with a multistate license permitting the practice
132.13 of social work in a remote state.

132.14 (19) "Multistate license" means a license to practice as a regulated social worker issued
132.15 by a home state licensing authority that authorizes the regulated social worker to practice
132.16 in all member states under multistate authorization to practice.

132.17 (20) "Qualifying national exam" means a national licensing examination approved by
132.18 the Commission.

132.19 (21) "Regulated social worker" means any clinical, master's, or bachelor's social worker
132.20 licensed by a member state regardless of the title used by that member state.

132.21 (22) "Remote state" means a member state other than the licensee's home state.

132.22 (23) "Rule" or "rule of the Commission" means a regulation or regulations duly
132.23 promulgated by the Commission, as authorized by the Compact, that has the force of law.

132.24 (24) "Single state license" means a social work license issued by any state that authorizes
132.25 practice only within the issuing state and does not include multistate authorization to practice
132.26 in any member state.

132.27 (25) "Social work" or "social work services" means the application of social work theory,
132.28 knowledge, methods, ethics, and the professional use of self to restore or enhance social,
132.29 psychosocial, or biopsychosocial functioning of individuals, couples, families, groups,
132.30 organizations, and communities through the care and services provided by a regulated social
132.31 worker as set forth in the member state's statutes and regulations in the state where the
132.32 services are being provided.

133.1 (26) "State" means any state, commonwealth, district, or territory of the United States
133.2 of America that regulates the practice of social work.

133.3 (27) "Unencumbered license" means a license that authorizes a regulated social worker
133.4 to engage in the full and unrestricted practice of social work.

133.5 **Sec. 3. [148E.42] STATE PARTICIPATION IN THE COMPACT.**

133.6 (a) To be eligible to participate in the compact, a potential member state must currently
133.7 meet all of the following criteria:

133.8 (1) license and regulate the practice of social work at either the clinical, master's, or
133.9 bachelor's category;

133.10 (2) require applicants for licensure to graduate from a program that:

133.11 (i) is operated by a college or university recognized by the licensing authority;

133.12 (ii) is accredited, or in candidacy by an institution that subsequently becomes accredited,
133.13 by an accrediting agency recognized by either:

133.14 (A) the Council for Higher Education Accreditation, or its successor; or

133.15 (B) the United States Department of Education; and

133.16 (iii) corresponds to the licensure sought as outlined in section 148E.43;

133.17 (3) require applicants for clinical licensure to complete a period of supervised practice;
133.18 and

133.19 (4) have a mechanism in place for receiving, investigating, and adjudicating complaints
133.20 about licensees.

133.21 (b) To maintain membership in the Compact, a member state shall:

133.22 (1) require that applicants for a multistate license pass a qualifying national exam for
133.23 the corresponding category of multistate license sought as outlined in section 148E.43;

133.24 (2) participate fully in the Commission's data system, including using the Commission's
133.25 unique identifier as defined in rules;

133.26 (3) notify the Commission, in compliance with the terms of the Compact and rules, of
133.27 any adverse action or the availability of current significant investigative information regarding
133.28 a licensee;

133.29 (4) implement procedures for considering the criminal history records of applicants for
133.30 a multistate license. Such procedures shall include the submission of fingerprints or other

134.1 biometric-based information by applicants for the purpose of obtaining an applicant's criminal
134.2 history record information from the Federal Bureau of Investigation and the agency
134.3 responsible for retaining that state's criminal records;

134.4 (5) comply with the rules of the Commission;

134.5 (6) require an applicant to obtain or retain a license in the home state and meet the home
134.6 state's qualifications for licensure or renewal of licensure, as well as all other applicable
134.7 home state laws;

134.8 (7) authorize a licensee holding a multistate license in any member state to practice in
134.9 accordance with the terms of the Compact and rules of the Commission; and

134.10 (8) designate a delegate to participate in the Commission meetings.

134.11 (c) A member state meeting the requirements of paragraphs (a) and (b) shall designate
134.12 the categories of social work licensure that are eligible for issuance of a multistate license
134.13 for applicants in such member state. To the extent that any member state does not meet the
134.14 requirements for participation in the Compact at any particular category of social work
134.15 licensure, such member state may choose but is not obligated to issue a multistate license
134.16 to applicants that otherwise meet the requirements of section 148E.43 for issuance of a
134.17 multistate license in such category or categories of licensure.

134.18 (d) The home state may charge a fee for granting the multistate license.

134.19 **Sec. 4. [148E.43] SOCIAL WORKER PARTICIPATION IN THE COMPACT.**

134.20 (a) To be eligible for a multistate license under the terms and provisions of the Compact,
134.21 an applicant, regardless of category, must:

134.22 (1) hold or be eligible for an active, unencumbered license in the home state;

134.23 (2) pay any applicable fees, including any state fee, for the multistate license;

134.24 (3) submit, in connection with an application for a multistate license, fingerprints or
134.25 other biometric data for the purpose of obtaining criminal history record information from
134.26 the Federal Bureau of Investigation and the agency responsible for retaining that state's
134.27 criminal records;

134.28 (4) notify the home state of any adverse action, encumbrance, or restriction on any
134.29 professional license taken by any member state or nonmember state within 30 days from
134.30 the date the action is taken;

134.31 (5) meet any continuing competence requirements established by the home state; and

135.1 (6) abide by the laws, regulations, and applicable standards in the member state where
135.2 the client is located at the time care is rendered.

135.3 (b) An applicant for a clinical-category multistate license must meet all of the following
135.4 requirements:

135.5 (1) fulfill a competency requirement, which shall be satisfied by either:

135.6 (i) passage of a clinical-category qualifying national exam;

135.7 (ii) licensure of the applicant in their home state at the clinical category, beginning prior
135.8 to such time as a qualifying national exam was required by the home state and accompanied
135.9 by a period of continuous social work licensure thereafter, all of which may be further
135.10 governed by the rules of the Commission; or

135.11 (iii) the substantial equivalency of the foregoing competency requirements which the
135.12 Commission may determine by rule;

135.13 (2) attain at least a master's degree in social work from a program that is:

135.14 (i) operated by a college or university recognized by the licensing authority; and

135.15 (ii) accredited, or in candidacy that subsequently becomes accredited, by an accrediting
135.16 agency recognized by either:

135.17 (A) the Council for Higher Education Accreditation or its successor; or

135.18 (B) the United States Department of Education; and

135.19 (3) fulfill a practice requirement, which shall be satisfied by demonstrating completion
135.20 of:

135.21 (i) a period of postgraduate supervised clinical practice equal to a minimum of 3,000
135.22 hours;

135.23 (ii) a minimum of two years of full-time postgraduate supervised clinical practice; or

135.24 (iii) the substantial equivalency of the foregoing practice requirements which the
135.25 Commission may determine by rule.

135.26 (c) An applicant for a master's-category multistate license must meet all of the following
135.27 requirements:

135.28 (1) fulfill a competency requirement, which shall be satisfied by either:

135.29 (i) passage of a masters-category qualifying national exam;

136.1 (ii) licensure of the applicant in their home state at the master's category, beginning prior
136.2 to such time as a qualifying national exam was required by the home state at the master's
136.3 category and accompanied by a continuous period of social work licensure thereafter, all
136.4 of which may be further governed by the rules of the Commission; or

136.5 (iii) the substantial equivalency of the foregoing competency requirements which the
136.6 Commission may determine by rule; and

136.7 (2) attain at least a master's degree in social work from a program that is:

136.8 (i) operated by a college or university recognized by the licensing authority; and

136.9 (ii) accredited, or in candidacy that subsequently becomes accredited, by an accrediting
136.10 agency recognized by either:

136.11 (A) the Council for Higher Education Accreditation or its successor; or

136.12 (B) the United States Department of Education.

136.13 (d) An applicant for a bachelor's-category multistate license must meet all of the following
136.14 requirements:

136.15 (1) fulfill a competency requirement, which shall be satisfied by either:

136.16 (i) passage of a bachelor's-category qualifying national exam;

136.17 (ii) licensure of the applicant in their home state at the bachelor's category, beginning
136.18 prior to such time as a qualifying national exam was required by the home state and
136.19 accompanied by a period of continuous social work licensure thereafter, all of which may
136.20 be further governed by the rules of the Commission; or

136.21 (iii) the substantial equivalency of the foregoing competency requirements which the
136.22 Commission may determine by rule; and

136.23 (2) attain at least a bachelor's degree in social work from a program that is:

136.24 (i) operated by a college or university recognized by the licensing authority; and

136.25 (ii) accredited, or in candidacy that subsequently becomes accredited, by an accrediting
136.26 agency recognized by either:

136.27 (A) the Council for Higher Education Accreditation or its successor; or

136.28 (B) the United States Department of Education.

(e) The multistate license for a regulated social worker is subject to the renewal requirements of the home state. The regulated social worker must maintain compliance with the requirements of paragraph (a) to be eligible to renew a multistate license.

(f) The regulated social worker's services in a remote state are subject to that member state's regulatory authority. A remote state may, in accordance with due process and that member state's laws, remove a regulated social worker's multistate authorization to practice in the remote state for a specific period of time, impose fines, and take any other necessary actions to protect the health and safety of its citizens.

(g) If a multistate license is encumbered, the regulated social worker's multistate authorization to practice shall be deactivated in all remote states until the multistate license is no longer encumbered.

(h) If a multistate authorization to practice is encumbered in a remote state, the regulated social worker's multistate authorization to practice may be deactivated in that state until the multistate authorization to practice is no longer encumbered.

Sec. 5. **[148E.44] ISSUANCE OF A MULTISTATE LICENSE.**

(a) Upon receipt of an application for multistate license, the home state licensing authority shall determine the applicant's eligibility for a multistate license in accordance with section 148E.43.

(b) If such applicant is eligible pursuant to section 148E.43, the home state licensing authority shall issue a multistate license that authorizes the applicant or regulated social worker to practice in all member states under a multistate authorization to practice.

(c) Upon issuance of a multistate license, the home state licensing authority shall designate whether the regulated social worker holds a multistate license in the bachelor's, master's, or clinical category of social work.

(d) A multistate license issued by a home state to a resident in that state shall be recognized by all Compact member states as authorizing social work practice under a multistate authorization to practice corresponding to each category of licensure regulated in each member state.

Sec. 6. **[148E.45] AUTHORITY OF INTERSTATE COMPACT COMMISSION AND MEMBER STATE LICENSING AUTHORITIES.**

(a) Nothing in this Compact, nor any rule of the Commission, shall be construed to limit, restrict, or in any way reduce the ability of a member state to enact and enforce laws,

138.1 regulations, or other rules related to the practice of social work in that state, where those
138.2 laws, regulations, or other rules are not inconsistent with the provisions of this Compact.

138.3 (b) Nothing in this Compact shall affect the requirements established by a member state
138.4 for the issuance of a single state license.

138.5 (c) Nothing in this Compact, nor any rule of the Commission, shall be construed to limit,
138.6 restrict, or in any way reduce the ability of a member state to take adverse action against a
138.7 licensee's single state license to practice social work in that state.

138.8 (d) Nothing in this Compact, nor any rule of the Commission, shall be construed to limit,
138.9 restrict, or in any way reduce the ability of a remote state to take adverse action against a
138.10 licensee's multistate authorization to practice in that state.

138.11 (e) Nothing in this Compact, nor any rule of the Commission, shall be construed to limit,
138.12 restrict, or in any way reduce the ability of a licensee's home state to take adverse action
138.13 against a licensee's multistate license based upon information provided by a remote state.

138.14 **Sec. 7. [148E.46] REISSUANCE OF A MULTISTATE LICENSE BY A NEW HOME**
138.15 **STATE.**

138.16 (a) A licensee can hold a multistate license, issued by their home state, in only one
138.17 member state at any given time.

138.18 (b) If a licensee changes their home state by moving between two member states:

138.19 (1) The licensee shall immediately apply for the reissuance of their multistate license in
138.20 their new home state. The licensee shall pay all applicable fees and notify the prior home
138.21 state in accordance with the rules of the Commission.

138.22 (2) Upon receipt of an application to reissue a multistate license, the new home state
138.23 shall verify that the multistate license is active, unencumbered, and eligible for reissuance
138.24 under the terms of the Compact and the rules of the Commission. The multistate license
138.25 issued by the prior home state will be deactivated and all member states notified in
138.26 accordance with the applicable rules adopted by the Commission.

138.27 (3) Prior to the reissuance of the multistate license, the new home state shall conduct
138.28 procedures for considering the criminal history records of the licensee. Such procedures
138.29 shall include the submission of fingerprints or other biometric-based information by
138.30 applicants for the purpose of obtaining an applicant's criminal history record information
138.31 from the Federal Bureau of Investigation and the agency responsible for retaining that state's
138.32 criminal records.

(4) If required for initial licensure, the new home state may require completion of jurisprudence requirements in the new home state.

(5) Notwithstanding any other provision of this Compact, if a licensee does not meet the requirements set forth in this Compact for the reissuance of a multistate license by the new home state, then the licensee shall be subject to the new home state requirements for the issuance of a single state license in that state.

(c) If a licensee changes their primary state of residence by moving from a member state to a nonmember state, or from a nonmember state to a member state, then the licensee shall be subject to the state requirements for the issuance of a single state license in the new home state.

(d) Nothing in this Compact shall interfere with a licensee's ability to hold a single state license in multiple states; however, for the purposes of this Compact, a licensee shall have only one home state, and only one multistate license.

(e) Nothing in this Compact shall interfere with the requirements established by a member state for the issuance of a single state license.

Sec. 8. [148E.47] MILITARY FAMILIES.

An active military member or their spouse shall designate a home state where the individual has a multistate license. The individual may retain their home state designation during the period the service member is on active duty.

Sec. 9. [148E.48] ADVERSE ACTIONS.

(a) In addition to the other powers conferred by state law, a remote state shall have the authority, in accordance with existing state due process law, to:

(1) take adverse action against a regulated social worker's multistate authorization to practice only within that member state, and issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing authority in a member state for the attendance and testimony of witnesses or the production of evidence from another member state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing licensing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state in which the witnesses or evidence are located; and

140.1 (2) only the home state shall have the power to take adverse action against a regulated
140.2 social worker's multistate license.

140.3 (b) For purposes of taking adverse action, the home state shall give the same priority
140.4 and effect to reported conduct received from a member state as it would if the conduct had
140.5 occurred within the home state. In so doing, the home state shall apply its own state laws
140.6 to determine appropriate action.

140.7 (c) The home state shall complete any pending investigations of a regulated social worker
140.8 who changes their home state during the course of the investigations. The home state shall
140.9 also have the authority to take appropriate action and shall promptly report the conclusions
140.10 of the investigations to the administrator of the data system. The administrator of the data
140.11 system shall promptly notify the new home state of any adverse actions.

140.12 (d) A member state, if otherwise permitted by state law, may recover from the affected
140.13 regulated social worker the costs of investigations and dispositions of cases resulting from
140.14 any adverse action taken against that regulated social worker.

140.15 (e) A member state may take adverse action based on the factual findings of another
140.16 member state, provided that the member state follows its own procedures for taking the
140.17 adverse action.

140.18 (f) Joint investigations:

140.19 (1) In addition to the authority granted to a member state by its respective social work
140.20 practice act or other applicable state law, any member state may participate with other
140.21 member states in joint investigations of licensees.

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

140.24 (g) If adverse action is taken by the home state against the multistate license of a regulated
140.25 social worker, the regulated social worker's multistate authorization to practice in all other
140.26 member states shall be deactivated until all encumbrances have been removed from the
140.27 multistate license. All home state disciplinary orders that impose adverse action against the
140.28 license of a regulated social worker shall include a statement that the regulated social worker's
140.29 multistate authorization to practice is deactivated in all member states until all conditions
140.30 of the decision, order, or agreement are satisfied.

140.31 (h) If a member state takes adverse action, it shall promptly notify the administrator of
140.32 the data system. The administrator of the data system shall promptly notify the home state
140.33 and all other member states of any adverse actions by remote states.

141.1 (i) Nothing in this compact shall override a member state's decision that participation
141.2 in an alternative program may be used in lieu of adverse action.

141.3 (j) Nothing in this Compact shall authorize a member state to demand the issuance of
141.4 subpoenas for attendance and testimony of witnesses or the production of evidence from
141.5 another member state for lawful actions within that member state.

141.6 (k) Nothing in this Compact shall authorize a member state to impose discipline against
141.7 a regulated social worker who holds a multistate authorization to practice for lawful actions
141.8 within another member state.

141.9 **Sec. 10. [148E.49] ESTABLISHMENT OF SOCIAL WORK LICENSURE**
141.10 **COMPACT COMMISSION.**

141.11 (a) The Compact member states hereby create and establish a joint government agency
141.12 whose membership consists of all member states that have enacted the compact known as
141.13 the Social Work Licensure Compact Commission. The Commission is an instrumentality
141.14 of the Compact states acting jointly and not an instrumentality of any one state. The
141.15 Commission shall come into existence on or after the effective date of the Compact as set
141.16 forth in section 148E.53.

141.17 (b) Membership, voting, and meetings:

141.18 (1) Each member state shall have and be limited to one delegate selected by that member
141.19 state's state licensing authority.

141.20 (2) The delegate shall be either:

141.21 (i) a current member of the state licensing authority at the time of appointment, who is
141.22 a regulated social worker or public member of the state licensing authority; or

141.23 (ii) an administrator of the state licensing authority or their designee.

141.24 (3) The Commission shall by rule or bylaw establish a term of office for delegates and
141.25 may by rule or bylaw establish term limits.

141.26 (4) The Commission may recommend removal or suspension of any delegate from office.

141.27 (5) A member state's state licensing authority shall fill any vacancy of its delegate
141.28 occurring on the Commission within 60 days of the vacancy.

141.29 (6) Each delegate shall be entitled to one vote on all matters before the Commission
141.30 requiring a vote by Commission delegates.

142.1 (7) A delegate shall vote in person or by such other means as provided in the bylaws.

142.2 The bylaws may provide for delegates to meet by telecommunication, video conference, or
142.3 other means of communication.

142.4 (8) The Commission shall meet at least once during each calendar year. Additional

142.5 meetings may be held as set forth in the bylaws. The Commission may meet by

142.6 telecommunication, video conference, or other similar electronic means.

142.7 (c) The Commission shall have the following powers:

142.8 (1) establish the fiscal year of the Commission;

142.9 (2) establish code of conduct and conflict of interest policies;

142.10 (3) establish and amend rules and bylaws;

142.11 (4) maintain its financial records in accordance with the bylaws;

142.12 (5) meet and take such actions as are consistent with the provisions of this Compact, the

142.13 Commission's rules, and the bylaws;

142.14 (6) initiate and conclude legal proceedings or actions in the name of the Commission,

142.15 provided that the standing of any state licensing board to sue or be sued under applicable

142.16 law shall not be affected;

142.17 (7) maintain and certify records and information provided to a member state as the

142.18 authenticated business records of the Commission, and designate an agent to do so on the

142.19 Commission's behalf;

142.20 (8) purchase and maintain insurance and bonds;

142.21 (9) borrow, accept, or contract for services of personnel, including but not limited to

142.22 employees of a member state;

142.23 (10) conduct an annual financial review;

142.24 (11) hire employees, elect or appoint officers, fix compensation, define duties, grant

142.25 such individuals appropriate authority to carry out the purposes of the Compact, and establish

142.26 the Commission's personnel policies and programs relating to conflicts of interest,

142.27 qualifications of personnel, and other related personnel matters;

142.28 (12) assess and collect fees;

142.29 (13) accept any and all appropriate gifts, donations, grants of money, other sources of

142.30 revenue, equipment, supplies, materials, and services, and receive, utilize, and dispose of

143.1 the same, provided that at all times the Commission shall avoid any appearance of
143.2 impropriety or conflict of interest;

143.3 (14) lease, purchase, retain, own, hold, improve, or use any property real, personal, or
143.4 mixed, or any undivided interest therein;

143.5 (15) sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of
143.6 any property real, personal, or mixed;

143.7 (16) establish a budget and make expenditures;

143.8 (17) borrow money;

143.9 (18) appoint committees, including standing committees, composed of members, state
143.10 regulators, state legislators or their representatives, and consumer representatives, and such
143.11 other interested persons as may be designated in this Compact and the bylaws;

143.12 (19) provide and receive information from, and cooperate with, law enforcement agencies;

143.13 (20) establish and elect an Executive Committee, including a chair and a vice chair;

143.14 (21) determine whether a state's adopted language is materially different from the model
143.15 compact language such that the state would not qualify for participation in the Compact;
143.16 and

143.17 (22) perform such other functions as may be necessary or appropriate to achieve the
143.18 purposes of this Compact.

143.19 (d) The Executive Committee:

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

143.23 (i) oversee the day-to-day activities of the administration of the Compact, including
143.24 enforcement and compliance with the provisions of the Compact, its rules and bylaws, and
143.25 other such duties as deemed necessary;

143.26 (ii) recommend to the Commission changes to the rules or bylaws, changes to this
143.27 Compact legislation, fees charged to Compact member states, fees charged to licensees,
143.28 and other fees;

143.29 (iii) ensure Compact administration services are appropriately provided, including by
143.30 contract;

143.31 (iv) prepare and recommend the budget;

- 144.1 (v) maintain financial records on behalf of the Commission;
- 144.2 (vi) monitor Compact compliance of member states and provide compliance reports to
144.3 the Commission;
- 144.4 (vii) establish additional committees as necessary;
- 144.5 (viii) exercise the powers and duties of the Commission during the interim between
144.6 Commission meetings, except for adopting or amending rules, adopting or amending bylaws,
144.7 and exercising any other powers and duties expressly reserved to the Commission by rule
144.8 or bylaw; and
- 144.9 (ix) other duties as provided in the rules or bylaws of the Commission.
- 144.10 (2) The Executive Committee shall be composed of up to 11 members:
- 144.11 (i) the chair and vice chair of the Commission shall be voting members of the Executive
144.12 Committee;
- 144.13 (ii) the Commission shall elect five voting members from the current membership of
144.14 the Commission;
- 144.15 (iii) up to four ex-officio, nonvoting members from four recognized national social work
144.16 organizations; and
- 144.17 (iv) the ex-officio members will be selected by their respective organizations.
- 144.18 (3) The Commission may remove any member of the Executive Committee as provided
144.19 in the Commission's bylaws.
- 144.20 (4) The Executive Committee shall meet at least annually.
- 144.21 (i) Executive Committee meetings shall be open to the public, except that the Executive
144.22 Committee may meet in a closed, nonpublic meeting as provided in paragraph (f), clause
144.23 (2).
- 144.24 (ii) The Executive Committee shall give seven days' notice of its meetings posted on its
144.25 website and as determined to provide notice to persons with an interest in the business of
144.26 the Commission.
- 144.27 (iii) The Executive Committee may hold a special meeting in accordance with paragraph
144.28 (f), clause (1), item (ii).
- 144.29 (e) The Commission shall adopt and provide to the member states an annual report.
- 144.30 (f) Meetings of the Commission:

145.1 (1) All meetings shall be open to the public, except that the Commission may meet in a
145.2 closed, nonpublic meeting as provided in paragraph (f), clause (2).

145.3 (i) Public notice for all meetings of the full Commission of meetings shall be given in
145.4 the same manner as required under the rulemaking provisions in section 148E.51, except
145.5 that the Commission may hold a special meeting as provided in paragraph (f), clause (1),
145.6 item (ii).

145.7 (ii) The Commission may hold a special meeting when it must meet to conduct emergency
145.8 business by giving 48 hours' notice to all commissioners on the Commission's website and
145.9 other means as provided in the Commission's rules. The Commission's legal counsel shall
145.10 certify that the Commission's need to meet qualifies as an emergency.

145.11 (2) The Commission or the Executive Committee or other committees of the Commission
145.12 may convene in a closed, nonpublic meeting for the Commission or Executive Committee
145.13 or other committees of the Commission to receive legal advice or to discuss:

145.14 (i) noncompliance of a member state with its obligations under the Compact;

145.15 (ii) the employment, compensation, discipline, or other matters, practices, or procedures
145.16 related to specific employees;

145.17 (iii) current or threatened discipline of a licensee by the Commission or by a member
145.18 state's licensing authority;

145.19 (iv) current, threatened, or reasonably anticipated litigation;

145.20 (v) negotiation of contracts for the purchase, lease, or sale of goods, services, or real
145.21 estate;

145.22 (vi) accusing any person of a crime or formally censuring any person;

145.23 (vii) trade secrets or commercial or financial information that is privileged or confidential;

145.24 (viii) information of a personal nature where disclosure would constitute a clearly
145.25 unwarranted invasion of personal privacy;

145.26 (ix) investigative records compiled for law enforcement purposes;

145.27 (x) information related to any investigative reports prepared by or on behalf of or for
145.28 use of the Commission or other committee charged with responsibility of investigation or
145.29 determination of compliance issues pursuant to the Compact;

145.30 (xi) matters specifically exempted from disclosure by federal or member state law; or

145.31 (xii) other matters as promulgated by the Commission by rule.

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

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

(g) Financing of the Commission:

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

(2) The Commission may accept any and all appropriate revenue sources as provided in paragraph (c), clause (13).

(3) The Commission may levy on and collect an annual assessment from each member state and impose fees on licensees of member states to whom it grants a multistate license to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount for member states shall be allocated based upon a formula that the Commission shall promulgate by rule.

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

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

(h) Qualified immunity, defense, and indemnification:

(1) The members, officers, executive director, employees, and representatives of the Commission shall be immune from suit and liability, both personally and in their official

147.1 capacity, for any claim for damage to or loss of property or personal injury or other civil
147.2 liability caused by or arising out of any actual or alleged act, error, or omission that occurred,
147.3 or that the person against whom the claim is made had a reasonable basis for believing
147.4 occurred within the scope of Commission employment, duties, or responsibilities, provided
147.5 that nothing in this paragraph shall be construed to protect any such person from suit or
147.6 liability for any damage, loss, injury, or liability caused by the intentional or willful or
147.7 wanton misconduct of that person. The procurement of insurance of any type by the
147.8 Commission shall not in any way compromise or limit the immunity granted hereunder.

147.9 (2) The Commission shall defend any member, officer, executive director, employee,
147.10 and representative of the Commission in any civil action seeking to impose liability arising
147.11 out of any actual or alleged act, error, or omission that occurred within the scope of
147.12 Commission employment, duties, or responsibilities, or as determined by the Commission
147.13 that the person against whom the claim is made had a reasonable basis for believing occurred
147.14 within the scope of Commission employment, duties, or responsibilities, provided that
147.15 nothing herein shall be construed to prohibit that person from retaining their own counsel
147.16 at their own expense, and provided further, that the actual or alleged act, error, or omission
147.17 did not result from that person's intentional or willful or wanton misconduct.

147.18 (3) The Commission shall indemnify and hold harmless any member, officer, executive
147.19 director, employee, and representative of the Commission for the amount of any settlement
147.20 or judgment obtained against that person arising out of any actual or alleged act, error, or
147.21 omission that occurred within the scope of Commission employment, duties, or
147.22 responsibilities, or that such person had a reasonable basis for believing occurred within
147.23 the scope of Commission employment, duties, or responsibilities, provided that the actual
147.24 or alleged act, error, or omission did not result from the intentional or willful or wanton
147.25 misconduct of that person.

147.26 (4) Nothing herein shall be construed as a limitation on the liability of any licensee for
147.27 professional malpractice or misconduct, which shall be governed solely by any other
147.28 applicable state laws.

147.29 (5) Nothing in this Compact shall be interpreted to waive or otherwise abrogate a member
147.30 state's state action immunity or state action affirmative defense with respect to antitrust
147.31 claims under the Sherman Act, Clayton Act, or any other state or federal antitrust or
147.32 anticompetitive law or regulation.

147.33 (6) Nothing in this Compact shall be construed to be a waiver of sovereign immunity
147.34 by the member states or by the Commission.

(i) Notwithstanding paragraph (h), clause (1), the liability of the executive director, employees, or representatives of the interstate commission, acting within the scope of their employment or duties, may not exceed the limits of liability set forth under the constitution and laws of this state for state officials, employees, and agents. This paragraph expressly incorporates section 3.736, and neither expands nor limits the rights and remedies provided under that statute.

(j) Except for a claim alleging a violation of this compact, a claim against the commission, its executive director, employees, or representatives alleging a violation of the constitution and laws of this state may be brought in any county where the plaintiff resides. Nothing in this paragraph creates a private right of action.

Sec. 11. **[148E.50] DATA SYSTEM.**

(a) The Commission shall provide for the development, maintenance, operation, and utilization of a coordinated data system.

(b) The Commission shall assign each applicant for a multistate license a unique identifier, as determined by the rules of the Commission.

(c) Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system on all individuals to whom this Compact is applicable as required by the rules of the Commission, including:

(1) identifying information;

(2) licensure data;

(3) adverse actions against a license and information related thereto;

(4) nonconfidential information related to alternative program participation, the beginning and ending dates of such participation, and other information related to such participation not made confidential under member state law;

(5) any denial of application for licensure, and the reason for such denial;

(6) the presence of current significant investigative information; and

(7) other information that may facilitate the administration of this Compact or the protection of the public, as determined by the rules of the Commission.

(d) The records and information provided to a member state pursuant to this Compact or through the data system, when certified by the Commission or an agent thereof, shall constitute the authenticated business records of the Commission, and shall be entitled to

149.1 any associated hearsay exception in any relevant judicial, quasi-judicial, or administrative
149.2 proceedings in a member state.

149.3 (e) Current significant investigative information pertaining to a licensee in any member
149.4 state will only be available to other member states.

149.5 (f) It is the responsibility of the member states to report any adverse action against a
149.6 licensee and to monitor the database to determine whether adverse action has been taken
149.7 against a licensee. Adverse action information pertaining to a licensee in any member state
149.8 will be available to any other member state.

149.9 (g) Member states contributing information to the data system may designate information
149.10 that may not be shared with the public without the express permission of the contributing
149.11 state.

149.12 (h) Any information submitted to the data system that is subsequently expunged pursuant
149.13 to federal law or the laws of the member state contributing the information shall be removed
149.14 from the data system.

149.15 **Sec. 12. [148E.51] RULEMAKING.**

149.16 (a) The Commission shall promulgate reasonable rules in order to effectively and
149.17 efficiently implement and administer the purposes and provisions of the Compact. A rule
149.18 shall be invalid and have no force or effect only if a court of competent jurisdiction holds
149.19 that the rule is invalid because the Commission exercised its rulemaking authority in a
149.20 manner that is beyond the scope and purposes of the Compact, or the powers granted
149.21 hereunder, or based upon another applicable standard of review.

149.22 (b) The rules of the Commission shall have the force of law in each member state,
149.23 provided however that where the rules of the Commission conflict with the laws of the
149.24 member state that establish the member state's laws, regulations, and applicable standards
149.25 that govern the practice of social work as held by a court of competent jurisdiction, the rules
149.26 of the Commission shall be ineffective in that state to the extent of the conflict.

149.27 (c) The Commission shall exercise its rulemaking powers pursuant to the criteria set
149.28 forth in this section and the rules adopted thereunder. Rules shall become binding on the
149.29 day following adoption or the date specified in the rule or amendment, whichever is later.

149.30 (d) If a majority of the legislatures of the member states rejects a rule or portion of a
149.31 rule, by enactment of a statute or resolution in the same manner used to adopt the Compact
149.32 within four years of the date of adoption of the rule, then such rule shall have no further
149.33 force and effect in any member state.

150.1 (e) Rules shall be adopted at a regular or special meeting of the Commission.

150.2 (f) Prior to adoption of a proposed rule, the commission shall hold a public hearing and
150.3 allow persons to provide oral and written comments, data, facts, opinions, and arguments.

150.4 (g) Prior to adoption of a proposed rule by the Commission, and at least 30 days in
150.5 advance of the meeting at which the Commission will hold a public hearing on the proposed
150.6 rule, the Commission shall provide a notice of proposed rulemaking:

150.7 (1) on the website of the Commission or other publicly accessible platform;

150.8 (2) to persons who have requested notice of the Commission's notices of proposed
150.9 rulemaking; and

150.10 (3) in such other way as the Commission may by rule specify.

150.11 (h) The notice of proposed rulemaking shall include:

150.12 (1) the time, date, and location of the public hearing at which the Commission will hear
150.13 public comments on the proposed rule and, if different, the time, date, and location of the
150.14 meeting where the Commission will consider and vote on the proposed rule;

150.15 (2) if the hearing is held via telecommunication, video conference, or other electronic
150.16 means, the Commission shall include the mechanism for access to the hearing in the notice
150.17 of proposed rulemaking;

150.18 (3) the text of the proposed rule and the reason therefor;

150.19 (4) a request for comments on the proposed rule from any interested person; and

150.20 (5) the manner in which interested persons may submit written comments.

150.21 (i) All hearings will be recorded. A copy of the recording and all written comments and
150.22 documents received by the Commission in response to the proposed rule shall be available
150.23 to the public.

150.24 (j) Nothing in this section shall be construed as requiring a separate hearing on each
150.25 rule. Rules may be grouped for the convenience of the Commission at hearings required by
150.26 this section.

150.27 (k) The Commission shall, by majority vote of all members, take final action on the
150.28 proposed rule based on the rulemaking record and the full text of the rule.

150.29 (1) The Commission may adopt changes to the proposed rule, provided the changes do
150.30 not enlarge the original purpose of the proposed rule.

151.1 (2) The Commission shall provide an explanation of the reasons for substantive changes
151.2 made to the proposed rule as well as reasons for substantive changes not made that were
151.3 recommended by commenters.

151.4 (3) The Commission shall determine a reasonable effective date for the rule. Except for
151.5 an emergency as provided in paragraph (1), the effective date of the rule shall be no sooner
151.6 than 30 days after issuing the notice that it adopted or amended the rule.

151.7 (l) Upon determination that an emergency exists, the Commission may consider and
151.8 adopt an emergency rule with 48 hours' notice, with opportunity to comment, provided that
151.9 the usual rulemaking procedures provided in the Compact and in this section shall be
151.10 retroactively applied to the rule as soon as reasonably possible, in no event later than 90
151.11 days after the effective date of the rule. For the purposes of this provision, an emergency
151.12 rule is one that must be adopted immediately in order to:

151.13 (1) meet an imminent threat to public health, safety, or welfare;

151.14 (2) prevent a loss of Commission or member state funds;

151.15 (3) meet a deadline for the promulgation of a rule that is established by federal law or
151.16 rule; or

151.17 (4) protect public health and safety.

151.18 (m) The Commission or an authorized committee of the Commission may direct revisions
151.19 to a previously adopted rule for purposes of correcting typographical errors, errors in format,
151.20 errors in consistency, or grammatical errors. Public notice of any revisions shall be posted
151.21 on the website of the Commission. The revision shall be subject to challenge by any person
151.22 for a period of 30 days after posting. The revision may be challenged only on grounds that
151.23 the revision results in a material change to a rule. A challenge shall be made in writing and
151.24 delivered to the Commission prior to the end of the notice period. If no challenge is made,
151.25 the revision will take effect without further action. If the revision is challenged, the revision
151.26 may not take effect without the approval of the Commission.

151.27 (n) No member state's rulemaking requirements shall apply under this compact.

151.28 **Sec. 13. [148E.52] OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT.**

151.29 (a) Oversight:

151.30 (1) The executive and judicial branches of state government in each member state shall
151.31 enforce this Compact and take all actions necessary and appropriate to implement the
151.32 Compact.

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

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

(b) Default, technical assistance, and termination:

(1) If the Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated rules, the Commission shall provide written notice to the defaulting state. The notice of default shall describe the default, the proposed means of curing the default, and any other action that the Commission may take, and shall offer training and specific technical assistance regarding the default.

(2) The Commission shall provide a copy of the notice of default to the other member states.

(c) If a state in default fails to cure the default, the defaulting state may be terminated from the Compact upon an affirmative vote of a majority of the delegates of the member states, and all rights, privileges, and benefits conferred on that state by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(d) Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting state's legislature, the defaulting state's state licensing authority, and each of the member states' state licensing authority.

(e) A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

153.1 (f) Upon the termination of a state's membership from this Compact, that state shall
153.2 immediately provide notice to all licensees within that state of such termination. The
153.3 terminated state shall continue to recognize all licenses granted pursuant to this Compact
153.4 for a minimum of six months after the date of said notice of termination.

153.5 (g) The Commission shall not bear any costs related to a state that is found to be in
153.6 default or that has been terminated from the Compact, unless agreed upon in writing between
153.7 the Commission and the defaulting state.

153.8 (h) The defaulting state may appeal the action of the Commission by petitioning the
153.9 United States District Court for the District of Columbia or the federal district where the
153.10 Commission has its principal offices. The prevailing party shall be awarded all costs of such
153.11 litigation, including reasonable attorney fees.

153.12 (i) Dispute resolution:

153.13 (1) Upon request by a member state, the Commission shall attempt to resolve disputes
153.14 related to the Compact that arise among member states and between member and nonmember
153.15 states.

153.16 (2) The Commission shall promulgate a rule providing for both mediation and binding
153.17 dispute resolution for disputes as appropriate.

153.18 (j) Enforcement:

153.19 (1) By majority vote as provided by rule, the Commission may initiate legal action
153.20 against a member state in default in the United States District Court for the District of
153.21 Columbia or the federal district where the Commission has its principal offices to enforce
153.22 compliance with the provisions of the Compact and its promulgated rules. The relief sought
153.23 may include both injunctive relief and damages. In the event judicial enforcement is
153.24 necessary, the prevailing party shall be awarded all costs of such litigation, including
153.25 reasonable attorney fees. The remedies herein shall not be the exclusive remedies of the
153.26 Commission. The Commission may pursue any other remedies available under federal or
153.27 the defaulting member state's law.

153.28 (2) A member state may initiate legal action against the Commission in the United States
153.29 District Court for the District of Columbia or the federal district where the Commission has
153.30 its principal offices to enforce compliance with the provisions of the Compact and its
153.31 promulgated rules. The relief sought may include both injunctive relief and damages. In the
153.32 event judicial enforcement is necessary, the prevailing party shall be awarded all costs of
153.33 such litigation, including reasonable attorney fees.

154.1 (3) No person other than a member state shall enforce this compact against the
154.2 Commission.

154.3 Sec. 14. **[148E.53] EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT.**

154.4 (a) The Compact shall come into effect on the date on which the Compact statute is
154.5 enacted into law in the seventh member state.

154.6 (1) On or after the effective date of the Compact, the Commission shall convene and
154.7 review the enactment of each of the first seven member states ("charter member states") to
154.8 determine if the statute enacted by each such charter member state is materially different
154.9 than the model Compact statute.

154.10 (i) A charter member state whose enactment is found to be materially different from the
154.11 model Compact statute shall be entitled to the default process set forth in section 148E.52.

154.12 (ii) If any member state is later found to be in default, or is terminated or withdraws
154.13 from the Compact, the Commission shall remain in existence and the Compact shall remain
154.14 in effect even if the number of member states should be less than seven.

154.15 (2) Member states enacting the compact subsequent to the seven initial charter member
154.16 states shall be subject to the process set forth in section 148E.49, paragraph (c), clause (21),
154.17 to determine if their enactments are materially different from the model Compact statute
154.18 and whether they qualify for participation in the Compact.

154.19 (3) All actions taken for the benefit of the Commission or in furtherance of the purposes
154.20 of the administration of the Compact prior to the effective date of the Compact or the
154.21 Commission coming into existence shall be considered to be actions of the Commission
154.22 unless specifically repudiated by the Commission.

154.23 (4) Any state that joins the Compact subsequent to the Commission's initial adoption of
154.24 the rules and bylaws shall be subject to the rules and bylaws as they exist on the date on
154.25 which the Compact becomes law in that state. Any rule that has been previously adopted
154.26 by the Commission shall have the full force and effect of law on the day the Compact
154.27 becomes law in that state.

154.28 (b) Any member state may withdraw from this Compact by enacting a statute repealing
154.29 the same.

154.30 (1) A member state's withdrawal shall not take effect until 180 days after enactment of
154.31 the repealing statute.

(2) Withdrawal shall not affect the continuing requirement of the withdrawing state's licensing authority to comply with the investigative and adverse action reporting requirements of this Compact prior to the effective date of withdrawal.

(3) Upon the enactment of a statute withdrawing from this Compact, a state shall immediately provide notice of such withdrawal to all licensees within that state. Notwithstanding any subsequent statutory enactment to the contrary, such withdrawing state shall continue to recognize all licenses granted pursuant to this Compact for a minimum of 180 days after the date of such notice of withdrawal.

(c) Nothing contained in this Compact shall be construed to invalidate or prevent any licensure agreement or other cooperative arrangement between a member state and a nonmember state that does not conflict with the provisions of this Compact.

(d) This Compact may be amended by the member states. No amendment to this Compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

Sec. 15. **[148E.54] CONSTRUCTION AND SEVERABILITY.**

(a) This Compact and the Commission's rulemaking authority shall be liberally construed so as to effectuate the purposes, and the implementation and administration of the Compact. Provisions of the Compact expressly authorizing or requiring the promulgation of rules shall not be construed to limit the Commission's rulemaking authority solely for those purposes.

(b) The provisions of this Compact shall be severable and if any phrase, clause, sentence, or provision of this Compact is held by a court of competent jurisdiction to be contrary to the constitution of any member state, a state seeking participation in the Compact, or of the United States, or the applicability thereof to any government, agency, person or circumstance is held to be unconstitutional by a court of competent jurisdiction, the validity of the remainder of this Compact and the applicability thereof to any other government, agency, person or circumstance shall not be affected thereby.

(c) Notwithstanding paragraph (b), the Commission may deny a state's participation in the Compact or, in accordance with the requirements of section 148E.52, paragraph (b), terminate a member state's participation in the Compact, if it determines that a constitutional requirement of a member state is a material departure from the Compact. Otherwise, if this Compact shall be held to be contrary to the constitution of any member state, the Compact

156.1 shall remain in full force and effect as to the remaining member states and in full force and
156.2 effect as to the member state affected as to all severable matters.

156.3 Sec. 16. **[148E.55] CONSISTENT EFFECT AND CONFLICT WITH OTHER STATE**

156.4 **LAWS.**

156.5 (a) A licensee providing services in a remote state under a multistate authorization to
156.6 practice shall adhere to the laws and regulations, including laws, regulations, and applicable
156.7 standards, of the remote state where the client is located at the time care is rendered.

156.8 (b) Nothing herein shall prevent or inhibit the enforcement of any other law of a member
156.9 state that is not inconsistent with the Compact.

156.10 (c) Any laws, statutes, regulations, or other legal requirements in a member state in
156.11 conflict with the Compact are superseded to the extent of the conflict.

156.12 (d) All permissible agreements between the Commission and the member states are
156.13 binding in accordance with their terms."

156.14 Amend the title accordingly

156.15 And when so amended the bill do pass and be re-referred to the Committee on State and
156.16 Local Government and Veterans. Amendments adopted. Report adopted.

156.17 _____
156.18 (Committee Chair)

156.19 April 12, 2024.....

156.20 (Date of Committee recommendation)