

1 AN ACT relating to administrative regulations and declaring an emergency.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 13A.010 is amended to read as follows:

4 As used in this chapter, unless the context otherwise requires:

- 5 (1) "Administrative body" means each state board, bureau, cabinet, commission,  
6 department, authority, officer, or other entity, except the General Assembly and the  
7 Court of Justice, authorized by law to promulgate administrative regulations;
- 8 (2) "Administrative regulation" means each statement of general applicability  
9 promulgated by an administrative body that implements, interprets, or prescribes  
10 law or policy, or describes the organization, procedure, or practice requirements of  
11 any administrative body. The term includes an existing administrative regulation, a  
12 new administrative regulation, an emergency administrative regulation, an  
13 administrative regulation in contemplation of a statute, and the amendment or  
14 repeal of an existing administrative regulation, but does not include:
- 15 (a) Statements concerning only the internal management of an administrative  
16 body and not affecting private rights or procedures available to the public;
- 17 (b) Declaratory rulings;
- 18 (c) Intradepartmental memoranda not in conflict with KRS 13A.130;
- 19 (d) Statements relating to acquisition of property for highway purposes and  
20 statements relating to the construction or maintenance of highways; or
- 21 (e) Rules, regulations, and policies of the governing boards of institutions that  
22 make up the postsecondary education system defined in KRS 164.001  
23 pertaining to students attending or applicants to the institutions, to faculty and  
24 staff of the respective institutions, or to the control and maintenance of land  
25 and buildings occupied by the respective institutions;
- 26 (3) "Adopted" means that an administrative regulation has become effective in  
27 accordance with the provisions of this chapter;

- 1 (4) "Authorizing signature" means the signature of the head of the administrative body  
2 authorized by statute to promulgate administrative regulations;
- 3 (5) "Commission" means the Legislative Research Commission;
- 4 (6) "Effective" means an administrative regulation that has completed the legislative  
5 committee review established by KRS 13A.290, Section 6 of this Act, 13A.330,  
6 and 13A.331;
- 7 (7) "Federal mandate" means any federal constitutional, legislative, or executive law or  
8 order that requires or permits any administrative body to engage in regulatory  
9 activities that impose compliance standards, reporting requirements, recordkeeping,  
10 or similar responsibilities upon entities in the Commonwealth;
- 11 (8) "Federal mandate comparison" means a written statement containing the  
12 information required by KRS 13A.245;
- 13 (9) "Filed" or "promulgated" means that an administrative regulation, or other  
14 document required to be filed by this chapter, has been submitted to the  
15 Commission in accordance with this chapter;
- 16 (10) "Last effective date" means the latter of:
- 17 (a) The most recent date an ordinary administrative regulation became effective,  
18 without including the date a technical amendment was made pursuant to KRS  
19 13A.040(10), 13A.2255(2), or 13A.312; or
- 20 (b) The date a certification letter was filed with the regulations compiler for that  
21 administrative regulation pursuant to KRS 13A.3104(4), if the letter stated  
22 that the administrative regulation shall remain in effect without amendment;
- 23 (11) "Legislative committee" means an interim joint committee, a House or Senate  
24 standing committee, a statutory committee, or a subcommittee of the Legislative  
25 Research Commission;
- 26 (12) "Local government" means and includes a city, county, urban-county, charter  
27 county, consolidated local government, special district, or a quasi-governmental

- 1 body authorized by the Kentucky Revised Statutes or a local ordinance;
- 2 (13) "Major economic impact" means an overall negative or adverse economic impact  
3 from an administrative regulation of five hundred thousand dollars (\$500,000) or  
4 more on state or local government or regulated entities, in aggregate, as determined  
5 by the promulgating administrative bodies;
- 6 (14) "Proposed administrative regulation" means an administrative regulation that:
- 7 (a) Has been filed by an administrative body; and  
8 (b) Has not become effective or been withdrawn;
- 9 (15) "Regulatory impact analysis" means a written statement containing the provisions  
10 required by KRS 13A.240;
- 11 (16) "Small business" means a business entity, including its affiliates, that:
- 12 (a) Is independently owned and operated; and  
13 (b) 1. Employs fewer than one hundred fifty (150) full-time employees or their  
14 equivalent; or  
15 2. Has gross annual sales of less than six million dollars (\$6,000,000);
- 16 (17) "Statement of consideration" means the document required by KRS 13A.280 in  
17 which the administrative body summarizes the comments received, its responses to  
18 those comments, and the action taken, if any, as a result of those comments and  
19 responses;
- 20 (18) "Subcommittee" means the Administrative Regulation Review Subcommittee of the  
21 Legislative Research Commission;
- 22 (19) "Tiering" means the tailoring of regulatory requirements to fit the particular  
23 circumstances surrounding regulated entities; and
- 24 (20) "Written comments" means comments submitted to the administrative body's  
25 contact person identified pursuant to KRS 13A.220(6)(d) via hand delivery, United  
26 States mail, e-mail, or facsimile and may include but is not limited to comments  
27 submitted internally from within the promulgating administrative body or from

1 another administrative body.

2 ➔Section 2. KRS 13A.030 is amended to read as follows:

3 (1) The Administrative Regulation Review Subcommittee shall:

4 (a) Conduct a continuous study as to whether additional legislation or changes in  
5 legislation are needed based on various factors, including, but not limited to,  
6 review of new, emergency, and existing administrative regulations, the lack of  
7 administrative regulations, and the needs of administrative bodies;

8 (b) Except as provided by KRS 158.6471 and 158.6472, review and comment  
9 upon effective administrative regulations pursuant to subsections (2), (3), and  
10 (4) of this section or administrative regulations filed with the Commission;

11 (c) Make recommendations for changes in statutes, new statutes, repeal of  
12 statutes affecting administrative regulations or the ability of administrative  
13 bodies to promulgate them; and

14 (d) Conduct such other studies relating to administrative regulations as may be  
15 assigned by the Commission.

16 (2) The subcommittee may make a **nonbinding** determination:

17 (a) That an effective administrative regulation or an administrative regulation  
18 filed with the Commission is deficient because it:

19 1. Is wrongfully promulgated;

20 2. Appears to be in conflict with an existing statute;

21 3. Appears to have no statutory authority for its promulgation;

22 4. Appears to impose stricter or more burdensome state requirements than  
23 required by the federal mandate, without reasonable justification;

24 5. Fails to use tiering when tiering is applicable;

25 6. Is in excess of the administrative body's authority;

26 7. Appears to impose an unreasonable burden on government or small  
27 business, or both;

- 1           8. Is filed as an emergency administrative regulation without adequate  
2           justification of the emergency nature of the situation as described in  
3           KRS 13A.190(1);
- 4           9. Has not been noticed in conformance with the requirements of KRS  
5           13A.270(3);
- 6           10. Does not provide an adequate cost analysis pursuant to KRS 13A.250;  
7           or
- 8           11. Appears to be deficient in any other manner;
- 9       (b) That an administrative regulation is needed to implement an existing statute;  
10       or
- 11       (c) That an administrative regulation should be amended or repealed.
- 12       (3) The subcommittee may review an effective administrative regulation if requested  
13       by a member of the subcommittee.
- 14       (4) The subcommittee may require any administrative body to submit data and  
15       information as required by the subcommittee in the performance of its duties under  
16       this chapter, and no administrative body shall fail to provide the information or data  
17       required.
- 18       ➔Section 3. KRS 13A.190 is amended to read as follows:
- 19       (1) An emergency administrative regulation is an administrative regulation that:
- 20       (a) An administrative body can clearly demonstrate, through documentary  
21       evidence submitted with the filing of the emergency administrative regulation,  
22       must be placed into effect immediately in order to:
- 23           1. Meet an imminent threat to public health, safety, welfare, or the  
24           environment;
- 25           2. Prevent an imminent loss of federal or state funds;
- 26           3. Meet an imminent deadline for the promulgation of an administrative  
27       regulation that is established by state statute or federal law; or

- 1           4. Comply with an executive order issued under KRS Chapter 39A; and
- 2           (b) 1. Is temporary in nature and will expire as provided in this section; or
- 3           2. Is temporary in nature and will be replaced by an ordinary
- 4           administrative regulation as provided in this section.

5           For the purposes of this section, "imminent" means within two hundred seventy

6           (270) days of the filing of the emergency administrative regulation.

7           (2) An agency's finding of an emergency pursuant to this section shall not be based on

8           the agency's failure to timely process and file administrative regulations through the

9           ordinary administrative regulation process.

10          (3) An emergency administrative regulation:

11          (a) Shall become effective and shall be considered as adopted upon filing;

12          (b) Shall be published in the Administrative Register in accordance with the

13          publication deadline established in KRS 13A.050(3);

14          (c) Shall be subject to the public comment provisions established in KRS

15          13A.270 and 13A.280;

16          (d) 1. May be reviewed at a subsequent meeting of a legislative committee

17          after the filing of the emergency administrative regulation; and

18          2. May, by a vote of the majority of the legislative committee's

19          membership as established by KRS 13A.020(4) and 13A.290(9), be

20          found to be deficient, and the deficiency shall be transmitted or reported

21          to the Governor pursuant to KRS 13A.330(2) or Section 6 of this Act;

22          and

23          (e) May be amended:

24          1. By the promulgating administrative body after receiving public

25          comments as established in KRS 13A.280. The amended after

26          comments version shall:

27          a. Become effective upon filing; and

- 1           b. Not require a statement of emergency; or
- 2           2. At a legislative committee meeting as established in KRS 13A.320. The
- 3           amendment shall be approved as established by KRS 13A.020(4) and
- 4           KRS 13A.290(9). The amended version shall become effective upon
- 5           adjournment of the meeting following the procedures established in
- 6           KRS 13A.331.
- 7 (4) (a) Except as provided by paragraph (b) of this subsection, emergency
- 8           administrative regulations shall expire two hundred seventy (270) days after
- 9           the date of filing or when the same matter filed as an ordinary administrative
- 10          regulation filed for review is adopted, whichever occurs first.
- 11         (b) If an administrative body extends the time for filing a statement of
- 12          consideration for an ordinary administrative regulation as provided by KRS
- 13          13A.280(2)(b), an emergency administrative regulation shall remain in effect
- 14          for two hundred seventy (270) days after the date of filing plus the number of
- 15          days extended under the provisions of KRS 13A.280(2)(b) or when the same
- 16          matter filed as an ordinary administrative regulation filed for review is
- 17          adopted, whichever occurs first.
- 18         (c) Filing an emergency amended after comments administrative regulation shall
- 19          not affect the expiration of an emergency regulation as established in
- 20          paragraphs (a) and (b) of this subsection.
- 21 (5) Except as established in subsection (6) of this section, an emergency administrative
- 22          regulation with the same number or title or governing the same subject matter shall
- 23          not be filed for a period of two hundred seventy (270) days after it has been initially
- 24          filed.
- 25 (6) If an emergency administrative regulation with the same number or title or
- 26          governing the same subject matter as an emergency administrative regulation filed
- 27          within the previous two hundred seventy (270) days is filed, it shall contain a

1 detailed explanation of the manner in which it differs from the previously filed  
2 emergency administrative regulation. The detailed explanation shall be included in  
3 the statement of emergency required by subsection (7) of this section.

4 (7) Each emergency administrative regulation shall contain a statement of:

5 (a) The nature of the emergency;

6 (b) The reasons why an ordinary administrative regulation is not sufficient;

7 (c) Whether or not the emergency administrative regulation will be replaced by  
8 an ordinary administrative regulation;

9 (d) If the emergency administrative regulation will be replaced by an ordinary  
10 administrative regulation, the following statement: "The ordinary  
11 administrative regulation (is or is not) identical to this emergency  
12 administrative regulation.";

13 (e) If the emergency administrative regulation will not be replaced by an ordinary  
14 administrative regulation, the reasons therefor; and

15 (f) If applicable, the explanation required by subsection (6) of this section.

16 (8) (a) An administrative body shall attach the:

17 1. Statement of emergency required by subsection (7) of this section to the  
18 front of the original and each copy of a proposed emergency  
19 administrative regulation;

20 2. Public hearing and public comment period information required by KRS  
21 13A.270(2), regulatory impact analysis, tiering statement, federal  
22 mandate comparison, fiscal note, summary of material incorporated by  
23 reference if applicable, and other forms or documents required by the  
24 provisions of this chapter to the back of the emergency administrative  
25 regulation; and

26 3. Documentary evidence submitted justifying the finding of an emergency  
27 in accordance with subsection (1) of this section to the back of the



1 emergency regulation if it is:

2 a. No more than four (4) pages in length; and

3 b. Typewritten on white paper, size eight and one-half (8-1/2) by  
4 eleven (11) inches, and single-sided.

5 Larger volumes of documentary evidence shall be filed in a separate  
6 binder or on a CD-ROM or DVD disc.

7 (b) An administrative body shall file with the regulations compiler:

8 1. The original and five (5) copies of the emergency administrative  
9 regulation; and

10 2. At the same time as, or prior to, filing the paper version, an electronic  
11 version of the emergency administrative regulation and the attachments  
12 required by paragraph (a) of this subsection saved as a single document  
13 for each emergency administrative regulation in an electronic format  
14 approved by the regulations compiler.

15 (c) The original and four (4) copies of each emergency administrative  
16 regulation shall be stapled in the top left corner. The fifth copy of each  
17 emergency administrative regulation shall not be stapled. The original  
18 and the five (5) copies of each emergency administrative regulation shall  
19 be grouped together.

20 (9) The statement of emergency shall have a two (2) inch top margin. The number of  
21 the emergency administrative regulation shall be typed directly below the heading  
22 "Statement of Emergency." The number of the emergency administrative regulation  
23 shall be the same number as the ordinary administrative regulation followed by an  
24 "E."

25 (10) Each executive department emergency administrative regulation shall be signed by  
26 the head of the administrative body and countersigned by the Governor prior to  
27 filing with the Commission. These signatures shall be on the statement of

1 emergency attached to the front of the emergency administrative regulation.

2 (11) If an emergency administrative regulation will be replaced by an ordinary  
3 administrative regulation, the ordinary administrative regulation shall be filed at the  
4 same time as the emergency administrative regulation that it will replace.

5 (12) If an ordinary administrative regulation that was filed to replace an emergency  
6 administrative regulation is withdrawn:

7 (a) The emergency administrative regulation shall expire on the date the ordinary  
8 administrative regulation is withdrawn; and

9 (b) The administrative body shall inform the regulations compiler of the reasons  
10 for withdrawal in writing.

11 (13) (a) If an emergency administrative regulation that was intended to be replaced by  
12 an ordinary administrative regulation is withdrawn, the emergency  
13 administrative regulation shall expire on the date it is withdrawn.

14 (b) If an emergency administrative regulation has been withdrawn, the ordinary  
15 administrative regulation that was filed with it shall not expire unless the  
16 administrative body informs the regulations compiler that the ordinary  
17 administrative regulation is also withdrawn.

18 (c) If an emergency administrative regulation is withdrawn, the administrative  
19 body shall inform the regulations compiler of the reasons for withdrawal in  
20 writing.

21 (14) The administrative regulations compiler shall notify all legislative committees of  
22 the number, title, and subject matter of all emergency administrative regulations  
23 and shall forward any additional information filed about the emergency  
24 administrative regulation requested by a legislative committee.

25 ➔Section 4. KRS 13A.290 is amended to read as follows:

26 (1) (a) Except as provided by KRS 158.6471 and 158.6472, the Administrative  
27 Regulation Review Subcommittee shall meet monthly to review

1 administrative regulations prior to close of business on the fifteenth day of the  
2 calendar month.

3 (b) The agenda shall:

- 4 1. Include each administrative regulation that completed the public  
5 comment process;
- 6 2. Include each administrative regulation for which a statement of  
7 consideration was received on or before 12 noon, eastern time, on the  
8 fifteenth day of the prior calendar month;
- 9 3. Include each effective administrative regulation that the subcommittee  
10 has decided to review;
- 11 4. Include each administrative regulation that was deferred from the prior  
12 month's meeting of the subcommittee; and
- 13 5. Not include an administrative regulation that is deferred, withdrawn,  
14 expired, or automatically taken off the agenda under the provisions of  
15 this chapter.

16 (c) Review of an administrative regulation shall include the entire administrative  
17 regulation and all attachments filed with the administrative regulation. The  
18 review of amendments to existing administrative regulations shall not be  
19 limited to only the changes proposed by the promulgating administrative  
20 body.

21 (2) The meetings shall be open to the public.

22 (3) Public notice of the time, date, and place of the Administrative Regulation Review  
23 Subcommittee meeting shall be given in the Administrative Register.

24 (4) (a) A representative of the administrative body for an administrative regulation  
25 under consideration shall be present to explain the administrative regulation  
26 and to answer questions thereon.

27 (b) If a representative of the administrative body with authority to amend a filed

1 administrative regulation is not present at the subcommittee meeting, the  
2 administrative regulation shall be deferred to the next regularly scheduled  
3 meeting of the subcommittee.

4 (c) If a representative of an administrative body for an effective administrative  
5 regulation fails to appear before the subcommittee, the subcommittee may:

6 1. Defer the administrative regulation to the next regularly scheduled  
7 meeting of the subcommittee; or

8 2. Make a ***nonbinding*** determination pursuant to KRS 13A.030(2), (3),  
9 and (4), or KRS 13A.190(3).

10 (5) Following the meeting and before the next regularly scheduled meeting of the  
11 Commission, the Administrative Regulation Review Subcommittee shall forward to  
12 the Commission its findings, recommendations, or other comments it deems  
13 appropriate in writing. The Administrative Regulation Review Subcommittee shall  
14 also forward to the Commission its findings, recommendations, or other comments  
15 it deems appropriate on an effective administrative regulation it has reviewed. The  
16 Administrative Regulation Review Subcommittee's findings shall be published in  
17 the Administrative Register.

18 (6) (a) After review by the Administrative Regulation Review Subcommittee, the  
19 Commission shall, on the first Wednesday of the following month, or if the  
20 first Wednesday is a legal holiday, the next workday of the month, assign a  
21 filed administrative regulation to a legislative committee with subject matter  
22 jurisdiction.

23 (b) Upon notification of the assignment by the Commission, the legislative  
24 committee to which the administrative regulation is assigned shall notify the  
25 regulations compiler:

26 1. Of the date, time, and place of the meeting at which it will consider the  
27 administrative regulation; or

- 1                   2. That it will not meet to consider the administrative regulation.
- 2 (7) (a) Within ninety (90) days of the assignment, the legislative committee may hold  
3 a public meeting during which the administrative regulation shall be  
4 reviewed.
- 5 (b) If the ninetieth day of the assignment falls on a Saturday, Sunday, or holiday,  
6 the deadline for review shall be the workday following the Saturday, Sunday,  
7 or holiday.
- 8 (c) 1. If the administrative regulation is assigned to an interim joint committee  
9 and a session of the General Assembly begins during the review period,  
10 the assignment shall transfer to the Senate and House standing  
11 committees with subject matter jurisdiction.
- 12 2. If the administrative regulation is assigned to Senate and House standing  
13 committees and a session of the General Assembly adjourns sine die  
14 during the review period, the assignment shall transfer to the interim  
15 joint committee with subject matter jurisdiction.
- 16 3. An administrative regulation may be transferred more than one (1) time  
17 under this paragraph. A transfer shall not extend the review period  
18 established by this subsection.
- 19 (d) Notice of the time, date, and place of the meeting shall be placed in the  
20 legislative calendar.
- 21 (8) Except as provided in subsection (9) of this section, a legislative committee shall be  
22 empowered to make the same ***nonbinding*** determinations and to exercise the same  
23 authority as the Administrative Regulation Review Subcommittee.
- 24 (9) (a) This subsection shall apply to administrative regulations filed with the  
25 Commission.
- 26 (b) A majority of the entire membership of the legislative committee shall  
27 constitute a quorum for purposes of reviewing administrative regulations.

- 1 (c) In order to amend an administrative regulation pursuant to KRS 13A.320,  
2 defer an administrative regulation pursuant to KRS 13A.300, or find an  
3 administrative regulation deficient pursuant to KRS 13A.030(2), (3), or (4) or  
4 13A.190(3), the motion to amend, defer, or find deficient shall be approved by  
5 a majority of the entire membership of the legislative committee.  
6 Additionally, during a session of the General Assembly, standing committees  
7 of the Senate and House of Representatives shall agree in order to amend an  
8 administrative regulation, defer an administrative regulation, or find an  
9 administrative regulation deficient by:
- 10 1. Meeting separately; or
  - 11 2. Meeting jointly. If the standing committees meet jointly, it shall require  
12 a majority vote of Senate members voting and a majority of House  
13 members voting, as well as the majority vote of the entire membership  
14 of the standing committees meeting jointly, in order to take action on the  
15 administrative regulation.
- 16 (10) (a) The quorum requirements of subsection (9)(b) of this section shall apply to an  
17 effective administrative regulation under review by a legislative committee.
- 18 (b) A motion to find an effective administrative regulation deficient shall be  
19 approved by:
- 20 1. A majority of the entire membership of the Administrative Regulation  
21 Review Subcommittee; or
  - 22 2. A legislative committee in accordance with subsection (9)(c) of this  
23 section.
- 24 (11) (a) Upon adjournment of the meeting at which a legislative committee has  
25 considered an administrative regulation pursuant to subsection (7) or (10) of  
26 this section, the legislative committee shall inform the regulations compiler of  
27 its findings, recommendations, or other action taken on the administrative

1 regulation.

2 (b) Following the meeting and before the next regularly scheduled meeting of the  
3 Commission, the legislative committee shall forward to the Commission its  
4 findings, recommendations, or other comments it deems appropriate in  
5 writing. The legislative committee's findings shall be published in the  
6 Administrative Register.

7 ➔Section 5. KRS 13A.315 is amended to read as follows:

- 8 (1) An administrative regulation shall expire and shall not be reviewed by a legislative  
9 committee if:
- 10 (a) It has not been reviewed or approved by the official or administrative body  
11 with authority to review or approve;
- 12 (b) The statement of consideration and, if applicable, the amended after  
13 comments version are not filed on or before a deadline specified by this  
14 chapter;
- 15 (c) The administrative body has failed to comply with the provisions of this  
16 chapter governing the filing of administrative regulations, the public hearing  
17 and public comment period, or the statement of consideration; or
- 18 (d) The administrative regulation is deferred pursuant to KRS 13A.300(2) more  
19 than twelve (12) times.
- 20 (2) (a) An administrative regulation that has been found deficient by a legislative  
21 committee shall be withdrawn immediately if, ~~pursuant to KRS 13A.330,~~  
22 the Governor has determined that it shall be withdrawn.
- 23 (b) The Governor shall notify the regulations compiler in writing and by  
24 telephone that he or she has determined that the administrative regulation  
25 found deficient shall be withdrawn.
- 26 (c) The written withdrawal of an administrative regulation governed by the  
27 provisions of this subsection shall be made in a letter to the regulations

1 compiler in the following format: "Pursuant to KRS 13A.310 or 13A.330, I  
 2 have determined that (administrative regulation number and title) shall be  
 3 (withdrawn, or withdrawn and amended to conform to the finding of  
 4 deficiency, as applicable). The administrative regulation, (administrative  
 5 regulation number and title), is hereby withdrawn."

- 6 (d) An administrative regulation governed by the provisions of this subsection  
 7 shall be considered withdrawn upon receipt by the regulations compiler of the  
 8 written withdrawal.

9 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO  
 10 READ AS FOLLOWS:

11 (1) If a legislative committee has made a nonbinding determination of deficiency for  
 12 an administrative regulation under this chapter:

13 (a) The legislative committee may request that the Attorney General review the  
 14 administrative regulation within ten (10) days of the finding; and

15 (b) Within twenty (20) days of receipt of the request, the Attorney General shall  
 16 review the administrative regulation considering the criteria in subsection  
 17 (2) of Section 2 of this Act and determine whether the finding is:

18 1. Warranted, in which case the administrative regulation shall be null,  
 19 void, and unenforceable; or

20 2. Unwarranted, in which case the administrative regulation shall:

21 a. Continue through the administrative regulations process if it is a  
 22 filed administrative regulation; or

23 b. Remain in effect if it is an ordinary administrative regulation  
 24 currently in effect.

25 (2) The Attorney General shall transmit this determination to the Governor, the  
 26 Commission, and the regulations compiler.

27 (3) Upon receipt by the regulations compiler of the Attorney General's determination



1 that the finding of deficiency was warranted, the administrative regulation shall:

2 (a) Be null, void, and unenforceable; and

3 (b) If it is a filed administrative regulation, cease going through the  
4 administrative regulations process.

5 (4) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary,  
6 an administrative body shall not promulgate an administrative regulation that is  
7 identical to, or substantially the same as, any administrative regulation that was  
8 reviewed by the Attorney General and whose deficiency finding was determined to  
9 be warranted for at least one (1) year after the date the Attorney General reviewed  
10 the administrative regulation.

11 ➔Section 7. KRS 13A.330 is amended to read as follows:

12 If a finding of deficiency was determined to be unwarranted by the Attorney General  
13 pursuant to Section 6 of this Act, or a review by the Attorney General of an  
14 administrative regulation found deficient was not requested, then the following process  
15 shall begin:

16 (1) (a) If a filed ordinary administrative regulation has been found deficient, the  
17 legislative committee shall transmit to the Governor and the regulations compiler:

- 18 1. A copy of the finding of deficiency and other relevant findings,  
19 recommendations, or comments; and
- 20 2. A request that the Governor determine whether the administrative  
21 regulation shall:
- 22 a. Be withdrawn;
- 23 b. Be amended at a legislative committee meeting pursuant to KRS  
24 13A.320 to conform to the finding of deficiency; or
- 25 c. Become effective pursuant to the provisions of this section  
26 notwithstanding the finding of deficiency.

27 (b) The Governor shall transmit his or her determination to the Commission and

1 the regulations compiler.

2 (c) A filed ordinary administrative regulation that has been found deficient shall  
3 be considered as adopted and become effective after:

4 1. a. The review period established in this chapter has been completed;  
5 and

6 b. The regulations compiler has received the Governor's  
7 determination that the administrative regulation shall become  
8 effective pursuant to the provisions of this section notwithstanding  
9 the finding of deficiency; or

10 2. The legislative committee that found the filed administrative regulation  
11 deficient subsequently determines that it is not deficient in accordance  
12 with KRS 13A.335, provided that this determination was made prior to  
13 receipt by the regulations compiler of the Governor's determination.

14 (2) (a) If an emergency administrative regulation has been found deficient, the  
15 legislative committee finding it deficient shall transmit to the Governor and  
16 the regulations compiler:

17 1. A copy of the finding of deficiency and other relevant findings,  
18 recommendations, or comments; and

19 2. A request that the Governor determine whether the emergency  
20 administrative regulation shall:

21 a. Be withdrawn;

22 b. Be amended at a legislative committee meeting pursuant to KRS  
23 13A.320 to conform to the finding of deficiency; or

24 c. Remain effective as established in KRS 13A.190(4)  
25 notwithstanding the finding of deficiency.

26 (b) The Governor shall transmit his or her determination to the Commission and  
27 the regulations compiler.

1 (c) The legislative committee that found the emergency administrative regulation  
2 deficient may subsequently determine that it is not deficient in accordance  
3 with KRS 13A.335.

4 (3) If an effective ordinary administrative regulation has been found deficient by a  
5 legislative committee, the legislative committee shall transmit to the Governor a  
6 copy of its finding of deficiency and other findings, recommendations, or comments  
7 it deems appropriate.

8 ➔Section 8. KRS 13A.335 is amended to read as follows:

9 (1) (a) A filed administrative regulation found deficient by a legislative committee  
10 shall not be considered deficient if:

- 11 1. A subsequent amendment of that administrative regulation is filed with  
12 the Commission by the administrative body;
- 13 2. The legislative committee that found the administrative regulation  
14 deficient approves a motion that the subsequent amendment corrects the  
15 deficiency; and
- 16 3. Any legislative committee that reviews the administrative regulation  
17 under the provisions of KRS Chapter 13A finds that the administrative  
18 regulation is not deficient.

19 (b) A filed administrative regulation found deficient by the Administrative  
20 Regulation Review Subcommittee shall not be considered deficient if:

- 21 1. The administrative regulation is amended to correct the deficiency at a  
22 meeting of the legislative committee to which it was assigned by the  
23 Commission;
- 24 2. That legislative committee does not determine that the administrative  
25 regulation is deficient for any other reason; and
- 26 3. The Administrative Regulation Review Subcommittee approves a  
27 motion that the deficiency has been corrected and that the administrative

1 regulation should not be considered deficient.

2 (c) A filed administrative regulation found deficient by a legislative committee  
3 with subject matter jurisdiction shall not be considered deficient if the  
4 legislative committee:

5 1. Reconsiders the administrative regulation and its finding of deficiency;  
6 and

7 2. Approves a motion that the administrative regulation is not deficient.

8 (d) If an amendment to an effective administrative regulation is going through the  
9 KRS Chapter 13A promulgation process and is found deficient by a  
10 legislative committee, the administrative regulation shall not be considered  
11 deficient if the:

12 1. Administrative regulation was found deficient due to the amendment;

13 2. Promulgating administrative body has withdrawn the proposed  
14 amendment of the existing administrative regulation; and

15 3. Regulations compiler has not received a determination from the:

16 a. Attorney General that a finding of deficiency was warranted  
17 pursuant to Section 6 of this Act; or

18 b. Governor~~[the Governor's determination]~~ pursuant to KRS  
19 13A.330.

20 (2) If an effective administrative regulation is found deficient by a legislative  
21 committee, the administrative regulation shall not be considered deficient if the  
22 legislative committee:

23 (a) Reconsiders the administrative regulation and its finding of deficiency; and

24 (b) Approves a motion that the administrative regulation is not deficient.

25 (3) (a) If an administrative regulation has been found deficient by a legislative  
26 committee, the regulations compiler shall add the following notice to the  
27 administrative regulation: "This administrative regulation was found deficient

1 by the [name of legislative committee] on [date]." This notice shall be the last  
2 section of the administrative regulation.

3 (b) If an administrative regulation has been found deficient by a legislative  
4 committee, subsequent amendments of that administrative regulation filed  
5 with the Commission shall contain the notice provided in paragraph (a) of this  
6 subsection.

7 (c) If an administrative regulation that has been found deficient by a legislative  
8 committee has subsequently been determined not to be deficient under the  
9 provisions of this section, the regulations compiler shall delete the notice  
10 required by paragraph (a) of this subsection.

11 ➔Section 9. KRS 13A.336 is amended to read as follows:

12 (1) (a) After the last regularly scheduled meeting of the Administrative Regulation  
13 Review Subcommittee in a calendar year, but by the thirty-first day of  
14 December of that calendar year, the staff of the Administrative Regulation  
15 Review Subcommittee shall submit a report to the co-chairs of that  
16 subcommittee regarding administrative regulations that were found deficient  
17 by any legislative committee of the Commission during that calendar year.

18 (b) The report in paragraph (a) of this subsection shall contain:

- 19 1. Effective administrative regulations that were found deficient; and  
20 2. Administrative regulations filed with the Commission that were found  
21 deficient.

22 (2) The report shall not contain any administrative regulation that was found deficient  
23 and:

24 (a) Has been withdrawn; or

25 (b) Is no longer considered deficient under KRS 13A.335.

26 (3) The report shall contain at least the following information for each administrative  
27 regulation in the report:

- 1 (a) Administrative regulation number and title;
- 2 (b) Name of the promulgating agency;
- 3 (c) Date of deficiency determination;
- 4 (d) Name of the legislative committee that made the deficiency determination;
- 5 (e) Effective date, if it is in effect;
- 6 (f) The finding of deficiency; ~~and any other findings, recommendations, or~~  
7 ~~comments sent to the Governor; and]~~
- 8 (g) **If the administrative regulation was reviewed by the Attorney General**  
9 **pursuant to Section 6 of this Act, the Attorney General's determination**  
10 **whether the finding of deficiency was warranted;**
- 11 (h) **Any other findings, recommendations, or comments sent to the Governor**  
12 **pursuant to Section 7 of this Act; and**
- 13 (i) If applicable under KRS 13A.330, the Governor's determination regarding the  
14 deficiency, if received by the Commission.
- 15 (4) The first page of the report required by subsection (1) of this section shall contain  
16 the following text, in fourteen (14) point font or larger:  
17 "To ratify the deficiency findings listed in this report, a co-chair or other legislator  
18 may request that Legislative Research Commission staff prepare a bill:
- 19 (a) Declaring that one (1) or more administrative regulations listed in the report  
20 shall be void; or
- 21 (b) Amending the relevant subject matter statutes in conformity with the findings  
22 of deficiency."
- 23 ➔Section 10. KRS 15.020 is amended to read as follows:
- 24 (1) The Attorney General is the chief law officer of the Commonwealth of Kentucky  
25 and all of its departments, commissions, agencies, and political subdivisions, and  
26 the legal adviser of all state officers, departments, commissions, and agencies, and  
27 when requested in writing shall furnish to them his or her written opinion touching

1 any of their official duties, and shall prepare proper drafts of all instruments of  
2 writing required for public use, and shall exercise all common law duties and  
3 authority pertaining to the office of the Attorney General under the common law,  
4 except when modified by statutory enactment.

5 (2) The Attorney General shall communicate with the Legislative Research  
6 Commission as required by KRS 418.075.

7 (3) Except as otherwise provided in KRS 48.005 and 2000 Ky. Acts ch. 483, sec. 8, the  
8 Attorney General shall appear for the Commonwealth in all cases in the Supreme  
9 Court or Court of Appeals wherein the Commonwealth is interested, and shall also  
10 commence all actions or enter an appearance in all cases, hearings, and proceedings  
11 in and before all other courts, tribunals, or commissions in or out of the state, and  
12 attend to all litigation and legal business in or out of the state required of the office  
13 by law, or in which the Commonwealth has an interest, and any litigation or legal  
14 business that any state officer, department, commission, or agency may have in  
15 connection with, or growing out of, his, her, or its official duties, except where it is  
16 made the duty of the Commonwealth's attorney or county attorney to represent the  
17 Commonwealth. When any attorney is employed for any said agency, the same  
18 shall have the approval of such agency before such employment.

19 (4) Notwithstanding any other statute or provision to the contrary, the Attorney General  
20 may:

21 (a) Bring any action challenging the constitutionality of a Kentucky statute,  
22 executive order, administrative regulation, or order of any cabinet, program  
23 cabinet, or department under KRS Chapter 12. The action may be brought in  
24 any county where the alleged constitutional harm has occurred or could be  
25 reasonably presumed to occur; and

26 (b) Review an administrative regulation under Section 6 of this Act to  
27 determine whether a finding of deficiency was warranted.

1 (5) If any funds of any kind or nature whatsoever are recovered by or on behalf of the  
2 Commonwealth, in any action, including an ex rel. action where the Attorney  
3 General has entered an appearance or is a party according to statutory or common  
4 law authority, those funds shall be handled under KRS 48.005.

5 ➔Section 11. KRS 314.475 is amended to read as follows:

6 The Nurse Licensure Compact is hereby enacted and entered into with all other  
7 jurisdictions that legally join in the Compact, which is, in form, substantially as follows:

8 ARTICLE I

9 Findings and Declaration of Purpose

10 a. The party states find that:

- 11 1. The health and safety of the public are affected by the degree of compliance  
12 with and the effectiveness of enforcement activities related to state nurse  
13 licensure laws;
- 14 2. Violations of nurse licensure and other laws regulating the practice of nursing  
15 may result in injury or harm to the public;
- 16 3. The expanded mobility of nurses and the use of advanced communication  
17 technologies as part of our nation's health care delivery system require greater  
18 coordination and cooperation among states in the areas of nurse licensure and  
19 regulation;
- 20 4. New practice modalities and technology make compliance with individual  
21 state nurse licensure laws difficult and complex;
- 22 5. The current system of duplicative licensure for nurses practicing in multiple  
23 states is cumbersome and redundant for both nurses and states; and
- 24 6. Uniformity of nurse licensure requirements throughout the states promotes  
25 public safety and public health benefits.

26 b. The general purposes of this Compact are to:

- 27 1. Facilitate the states' responsibility to protect the public's health and safety;



- 1       2.    Ensure and encourage the cooperation of party states in the areas of nurse  
2            licensure and regulation;
- 3       3.    Facilitate the exchange of information between party states in the areas of  
4            nurse regulation, investigation and adverse actions;
- 5       4.    Promote compliance with the laws governing the practice of nursing in each  
6            jurisdiction;
- 7       5.    Invest all party states with the authority to hold a nurse accountable for  
8            meeting all state practice laws in the state in which the patient is located at the  
9            time care is rendered through the mutual recognition of party state licenses;
- 10      6.    Decrease redundancies in the consideration and issuance of nurse licenses;  
11            and
- 12      7.    Provide opportunities for interstate practice by nurses who meet uniform  
13            licensure requirements.
- 14    c.    The following provisions of this Compact shall apply in this state:
  - 15      1.    By entering into this Compact, this state authorizes the licensing board as  
16            defined in Article II. g. of this Compact and as created by KRS Chapter 314 to  
17            implement the provisions of this Compact.
  - 18      2.    Notwithstanding any provision of this Compact to the contrary:
    - 19        i.    When a rule is adopted pursuant to Article VIII of this Compact, the  
20            licensing board of this state as defined by Article II. g. of this Compact  
21            shall have sixty (60) days to review the rule for the purpose of filing the  
22            rule as an emergency administrative regulation pursuant to KRS  
23            13A.190 and for filing the rule as an accompanying ordinary  
24            administrative regulation, following the requirements of KRS Chapter  
25            13A. Failure by the licensing board of this state as defined by Article II.  
26            g. of this Compact to promulgate a rule adopted by the Interstate  
27            Commission of Nurse Licensure Compact Administrators as an

1 administrative regulation pursuant to KRS Chapter 13A shall result in  
2 the initiation of the process for withdrawal as set forth in Article X of  
3 this Compact. Nothing in these provisions shall negate the applicability  
4 and effect of Article VIII. j. of this Compact to this state.

5 ii. If the proposed administrative regulation is found deficient and the  
6 deficiency is not resolved pursuant to KRS 13A.330~~1-01~~ 13A.335, or  
7 Section 6 of this Act, the provisions of Article IX of this Compact shall  
8 apply. In the event that the procedures under Article IX of this Compact  
9 fail to resolve an issue, the provisions of Article X of this Compact shall  
10 apply.

11 iii. In the event the Interstate Commission of Nurse Licensure Compact  
12 Administrators created by Article VII of this Compact exercises its  
13 rulemaking authority in a manner that is beyond the scope of the  
14 purposes of this Compact, or the powers granted hereunder, then such an  
15 action by the Commission shall be invalid and have no force or effect.

16 3. Article VII. h. of this Compact pertaining to the financing of the Commission  
17 shall not be interpreted to obligate the general fund of this state. Any funds  
18 used to finance this Compact shall be from money collected pursuant to KRS  
19 314.161.

20 4. This Compact shall apply only to those nurses who hold a multistate license.

21 5. The term "head of the state licensing board" as used in Article VII. b. of this  
22 Compact refers to the executive director of the Kentucky Board of Nursing.

## 23 ARTICLE II

### 24 Definitions

25 As used in this Compact:

26 a. "Adverse action" means any administrative, civil, equitable or criminal action  
27 permitted by a state's laws which is imposed by a licensing board or other authority

- 1 against a nurse, including actions against an individual's license or multistate  
2 licensure privilege such as revocation, suspension, probation, monitoring of the  
3 licensee, limitation on the licensee's practice, or any other encumbrance on  
4 licensure affecting a nurse's authorization to practice, including issuance of a cease  
5 and desist action.
- 6 b. "Alternative program" means a non-disciplinary monitoring program approved by a  
7 licensing board.
- 8 c. "Coordinated licensure information system" means an integrated process for  
9 collecting, storing and sharing information on nurse licensure and enforcement  
10 activities related to nurse licensure laws that is administered by a nonprofit  
11 organization composed of and controlled by licensing boards.
- 12 d. "Current significant investigative information" means:
- 13 1. Investigative information that a licensing board, after a preliminary inquiry  
14 that includes notification and an opportunity for the nurse to respond, if  
15 required by state law, has reason to believe is not groundless and, if proved  
16 true, would indicate more than a minor infraction; or
- 17 2. Investigative information that indicates that the nurse represents an immediate  
18 threat to public health and safety regardless of whether the nurse has been  
19 notified and had an opportunity to respond.
- 20 e. "Encumbrance" means a revocation or suspension of, or any limitation on, the full  
21 and unrestricted practice of nursing imposed by a licensing board.
- 22 f. "Home state" means the party state which is the nurse's primary state of residence.
- 23 g. "Licensing board" means a party state's regulatory body responsible for issuing  
24 nurse licenses.
- 25 h. "Multistate license" means a license to practice as a registered or a licensed  
26 practical/vocational nurse (LPN/VN) issued by a home state licensing board that  
27 authorizes the licensed nurse to practice in all party states under a multistate

1 licensure privilege.

- 2 i. "Multistate licensure privilege" means a legal authorization associated with a  
3 multistate license permitting the practice of nursing as either a registered nurse  
4 (RN) or LPN/VN in a remote state.
- 5 j. "Nurse" means RN or LPN/VN, as those terms are defined by each party state's  
6 practice laws.
- 7 k. "Party state" means any state that has adopted this Compact.
- 8 l. "Remote state" means a party state, other than the home state.
- 9 m. "Single-state license" means a nurse license issued by a party state that authorizes  
10 practice only within the issuing state and does not include a multistate licensure  
11 privilege to practice in any other party state.
- 12 n. "State" means a state, territory or possession of the United States and the District of  
13 Columbia.
- 14 o. "State practice laws" means a party state's laws, rules and regulations that govern  
15 the practice of nursing, define the scope of nursing practice, and create the methods  
16 and grounds for imposing discipline. "State practice laws" do not include  
17 requirements necessary to obtain and retain a license, except for qualifications or  
18 requirements of the home state.

19

### ARTICLE III

#### 20 General Provisions and Jurisdiction

- 21 a. A multistate license to practice registered or licensed practical/vocational nursing  
22 issued by a home state to a resident in that state will be recognized by each party  
23 state as authorizing a nurse to practice as a registered nurse (RN) or as a licensed  
24 practical/vocational nurse (LPN/VN), under a multistate licensure privilege, in each  
25 party state.
- 26 b. A state must implement procedures for considering the criminal history records of  
27 applicants for initial multistate license or licensure by endorsement. Such

1 procedures shall include the submission of fingerprints or other biometric-based  
2 information by applicants for the purpose of obtaining an applicant's criminal  
3 history record information from the Federal Bureau of Investigation and the agency  
4 responsible for retaining that state's criminal records.

5 c. Each party state shall require the following for an applicant to obtain or retain a  
6 multistate license in the home state:

7 1. Meets the home state's qualifications for licensure or renewal of licensure, as  
8 well as all other applicable state laws;

9 2. i. Has graduated or is eligible to graduate from a licensing board-approved  
10 RN or LPN/VN prelicensure education program; or

11 ii. Has graduated from a foreign RN or LPN/VN prelicensure education  
12 program that (a) has been approved by the authorized accrediting body  
13 in the applicable country and (b) has been verified by an independent  
14 credentials review agency to be comparable to a licensing board-  
15 approved prelicensure education program;

16 3. Has, if a graduate of a foreign prelicensure education program, not taught in  
17 English or, if English is not the individual's native language, successfully  
18 passed an English proficiency examination that includes the components of  
19 reading, speaking, writing and listening;

20 4. Has successfully passed an NCLEX-RN or NCLEX-PN Examination or  
21 recognized predecessor, as applicable;

22 5. Is eligible for or holds an active, unencumbered license;

23 6. Has submitted, in connection with an application for initial licensure or  
24 licensure by endorsement, fingerprints or other biometric data for the purpose  
25 of obtaining criminal history record information from the Federal Bureau of  
26 Investigation and the agency responsible for retaining that state's criminal  
27 records;

- 1       7. Has not been convicted or found guilty, or has entered into an agreed
  - 2           disposition, of a felony offense under applicable state or federal criminal law;
  - 3       8. Has not been convicted or found guilty, or has entered into an agreed
  - 4           disposition, of a misdemeanor offense related to the practice of nursing as
  - 5           determined on a case-by-case basis;
  - 6       9. Is not currently enrolled in an alternative program;
  - 7       10. Is subject to self-disclosure requirements regarding current participation in an
  - 8           alternative program; and
  - 9       11. Has a valid United States Social Security number.
- 10 d. All party states shall be authorized, in accordance with existing state due process
- 11 law, to take adverse action against a nurse's multistate licensure privilege such as
- 12 revocation, suspension, probation or any other action that affects a nurse's
- 13 authorization to practice under a multistate licensure privilege, including cease and
- 14 desist actions. If a party state takes such action, it shall promptly notify the
- 15 administrator of the coordinated licensure information system. The administrator of
- 16 the coordinated licensure information system shall promptly notify the home state
- 17 of any such actions by remote states.
- 18 e. A nurse practicing in a party state must comply with the state practice laws of the
- 19 state in which the client is located at the time service is provided. The practice of
- 20 nursing is not limited to patient care, but shall include all nursing practice as
- 21 defined by the state practice laws of the party state in which the client is located.
- 22 The practice of nursing in a party state under a multistate licensure privilege will
- 23 subject a nurse to the jurisdiction of the licensing board, the courts and the laws of
- 24 the party state in which the client is located at the time service is provided.
- 25 f. Individuals not residing in a party state shall continue to be able to apply for a party
- 26 state's single-state license as provided under the laws of each party state. However,
- 27 the single-state license granted to these individuals will not be recognized as

1 granting the privilege to practice nursing in any other party state. Nothing in this  
2 Compact shall affect the requirements established by a party state for the issuance  
3 of a single-state license.

4 g. Any nurse holding a home state multistate license, on the effective date of this  
5 Compact, may retain and renew the multistate license issued by the nurse's then-  
6 current home state, provided that:

- 7 1. A nurse, who changes primary state of residence after this Compact's effective  
8 date, must meet all applicable Article III.c. requirements to obtain a multistate  
9 license from a new home state.
- 10 2. A nurse who fails to satisfy the multistate licensure requirements in Article  
11 III. c. of this Compact due to a disqualifying event occurring after this  
12 Compact's effective date shall be ineligible to retain or renew a multistate  
13 license, and the nurse's multistate license shall be revoked or deactivated in  
14 accordance with applicable rules adopted by the Interstate Commission of  
15 Nurse Licensure Compact Administrators ("Commission").

#### 16 ARTICLE IV

##### 17 Applications for Licensure in a Party State

18 a. Upon application for a multistate license, the licensing board in the issuing party  
19 state shall ascertain, through the coordinated licensure information system, whether  
20 the applicant has ever held, or is the holder of, a license issued by any other state,  
21 whether there are any encumbrances on any license or multistate licensure privilege  
22 held by the applicant, whether any adverse action has been taken against any license  
23 or multistate licensure privilege held by the applicant and whether the applicant is  
24 currently participating in an alternative program.

25 b. A nurse may hold a multistate license, issued by the home state, in only one (1)  
26 party state at a time.

27 c. If a nurse changes primary state of residence by moving between two (2) party

1 states, the nurse must apply for licensure in the new home state, and the multistate  
2 license issued by the prior home state will be deactivated in accordance with  
3 applicable rules adopted by the Commission.

- 4 1. The nurse may apply for licensure in advance of a change in primary state of  
5 residence.
  - 6 2. A multistate license shall not be issued by the new home state until the nurse  
7 provides satisfactory evidence of a change in primary state of residence to the  
8 new home state and satisfies all applicable requirements to obtain a multistate  
9 license from the new home state.
- 10 d. If a nurse changes primary state of residence by moving from a party state to a non-  
11 party state, the multistate license issued by the prior home state will convert to a  
12 single-state license, valid only in the former home state.

#### 13 ARTICLE V

#### 14 Additional Authorities Invested in Party State Licensing Boards

- 15 a. In addition to the other powers conferred by state law, a licensing board shall have  
16 the authority to:
  - 17 1. Take adverse action against a nurse's multistate licensure privilege to practice  
18 within that party state.
    - 19 i. Only the home state shall have the power to take adverse action against  
20 a nurse's license issued by the home state.
    - 21 ii. For purposes of taking adverse action, the home state licensing board  
22 shall give the same priority and effect to reported conduct received from  
23 a remote state as it would if such conduct had occurred within the home  
24 state. In so doing, the home state shall apply its own state laws to  
25 determine appropriate action.
  - 26 2. Issue cease and desist orders or impose an encumbrance on a nurse's authority  
27 to practice within that party state.



- 1           3. Complete any pending investigations of a nurse who changes primary state of  
2           residence during the course of such investigations. The licensing board shall  
3           also have the authority to take appropriate action(s) and shall promptly report  
4           the conclusions of such investigations to the administrator of the coordinated  
5           licensure information system. The administrator of the coordinated licensure  
6           information system shall promptly notify the new home state of any such  
7           actions.
- 8           4. Issue subpoenas for both hearings and investigations that require the  
9           attendance and testimony of witnesses, as well as the production of evidence.  
10          Subpoenas issued by a licensing board in a party state for the attendance and  
11          testimony of witnesses or the production of evidence from another party state  
12          shall be enforced in the latter state by any court of competent jurisdiction,  
13          according to the practice and procedure of that court applicable to subpoenas  
14          issued in proceedings pending before it. The issuing authority shall pay any  
15          witness fees, travel expenses, mileage and other fees required by the service  
16          statutes of the state in which the witnesses or evidence are located.
- 17          5. Obtain and submit, for each nurse licensure applicant, fingerprint or other  
18          biometric-based information to the Federal Bureau of Investigation for  
19          criminal background checks, receive the results of the Federal Bureau of  
20          Investigation record search on criminal background checks and use the results  
21          in making licensure decisions.
- 22          6. If otherwise permitted by state law, recover from the affected nurse the costs  
23          of investigations and disposition of cases resulting from any adverse action  
24          taken against that nurse.
- 25          7. Take adverse action based on the factual findings of the remote state,  
26          provided that the licensing board follows its own procedures for taking such  
27          adverse action.

- 1 b. If adverse action is taken by the home state against a nurse's multistate license, the  
2 nurse's multistate licensure privilege to practice in all other party states shall be  
3 deactivated until all encumbrances have been removed from the multistate license.  
4 All home state disciplinary orders that impose adverse action against a nurse's  
5 multistate license shall include a statement that the nurse's multistate licensure  
6 privilege is deactivated in all party states during the pendency of the order.
- 7 c. Nothing in this Compact shall override a party state's decision that participation in  
8 an alternative program may be used in lieu of adverse action. The home state  
9 licensing board shall deactivate the multistate licensure privilege under the  
10 multistate license of any nurse for the duration of the nurse's participation in an  
11 alternative program.

## 12 ARTICLE VI

### 13 Coordinated Licensure Information System and Exchange of Information

- 14 a. All party states shall participate in a coordinated licensure information system of all  
15 licensed registered nurses (RNs) and licensed practical/vocational nurses  
16 (LPNs/VNs). This system will include information on the licensure and disciplinary  
17 history of each nurse, as submitted by party states, to assist in the coordination of  
18 nurse licensure and enforcement efforts.
- 19 b. The Commission, in consultation with the administrator of the coordinated  
20 licensure information system, shall formulate necessary and proper procedures for  
21 the identification, collection and exchange of information under this Compact.
- 22 c. All licensing boards shall promptly report to the coordinated licensure information  
23 system any adverse action, any current significant investigative information, denials  
24 of applications (with the reasons for such denials) and nurse participation in  
25 alternative programs known to the licensing board regardless of whether such  
26 participation is deemed nonpublic or confidential under state law.
- 27 d. Current significant investigative information and participation in nonpublic or

1 confidential alternative programs shall be transmitted through the coordinated  
2 licensure information system only to party state licensing boards.

3 e. Notwithstanding any other provision of law, all party state licensing boards  
4 contributing information to the coordinated licensure information system may  
5 designate information that may not be shared with non-party states or disclosed to  
6 other entities or individuals without the express permission of the contributing state.

7 f. Any personally identifiable information obtained from the coordinated licensure  
8 information system by a party state licensing board shall not be shared with non-  
9 party states or disclosed to other entities or individuals except to the extent  
10 permitted by the laws of the party state contributing the information.

11 g. Any information contributed to the coordinated licensure information system that is  
12 subsequently required to be expunged by the laws of the party state contributing  
13 that information shall also be expunged from the coordinated licensure information  
14 system.

15 h. The Compact administrator of each party state shall furnish a uniform data set to the  
16 Compact administrator of each other party state, which shall include, at a minimum:

- 17 1. Identifying information;
- 18 2. Licensure data;
- 19 3. Information related to alternative program participation; and
- 20 4. Other information that may facilitate the administration of this Compact, as  
21 determined by Commission rules.

22 i. The Compact administrator of a party state shall provide all investigative  
23 documents and information requested by another party state.

## 24 ARTICLE VII

### 25 Establishment of the Interstate Commission of Nurse Licensure Compact Administrators

26 a. The party states hereby create and establish a joint public entity known as the  
27 Interstate Commission of Nurse Licensure Compact Administrators.

- 1       1.    The Commission is an instrumentality of the party states.
- 2       2.    Venue is proper, and judicial proceedings by or against the Commission shall
- 3            be brought solely and exclusively, in a court of competent jurisdiction where
- 4            the principal office of the Commission is located. The Commission may
- 5            waive venue and jurisdictional defenses to the extent it adopts or consents to
- 6            participate in alternative dispute resolution proceedings.
- 7       3.    Nothing in this Compact shall be construed to be a waiver of sovereign
- 8            immunity.

9    b.    Membership, Voting and Meetings

- 10       1.    Each party state shall have and be limited to one administrator. The head of
- 11            the state licensing board or designee shall be the administrator of this
- 12            Compact for each party state. Any administrator may be removed or
- 13            suspended from office as provided by the law of the state from which the
- 14            Administrator is appointed. Any vacancy occurring in the Commission shall
- 15            be filled in accordance with the laws of the party state in which the vacancy
- 16            exists.
- 17       2.    Each administrator shall be entitled to one (1) vote with regard to the
- 18            promulgation of rules and creation of bylaws and shall otherwise have an
- 19            opportunity to participate in the business and affairs of the Commission. An
- 20            administrator shall vote in person or by such other means as provided in the
- 21            bylaws. The bylaws may provide for an administrator's participation in
- 22            meetings by telephone or other means of communication.
- 23       3.    The Commission shall meet at least once during each calendar year.
- 24            Additional meetings shall be held as set forth in the bylaws or rules of the
- 25            commission.
- 26       4.    All meetings shall be open to the public, and public notice of meetings shall
- 27            be given in the same manner as required under the rulemaking provisions in

1 Article VIII of this Compact.

2 5. The Commission may convene in a closed, nonpublic meeting if the  
3 Commission must discuss:

- 4 i. Noncompliance of a party state with its obligations under this Compact;  
5 ii. The employment, compensation, discipline or other personnel matters,  
6 practices or procedures related to specific employees or other matters  
7 related to the Commission's internal personnel practices and procedures;  
8 iii. Current, threatened or reasonably anticipated litigation;  
9 iv. Negotiation of contracts for the purchase or sale of goods, services or  
10 real estate;  
11 v. Accusing any person of a crime or formally censuring any person;  
12 vi. Disclosure of trade secrets or commercial or financial information that is  
13 privileged or confidential;  
14 vii. Disclosure of information of a personal nature where disclosure would  
15 constitute a clearly unwarranted invasion of personal privacy;  
16 viii. Disclosure of investigatory records compiled for law enforcement  
17 purposes;  
18 ix. Disclosure of information related to any reports prepared by or on behalf  
19 of the Commission for the purpose of investigation of compliance with  
20 this Compact; or  
21 x. Matters specifically exempted from disclosure by federal or state statute.

22 6. If a meeting, or portion of a meeting, is closed pursuant to this provision, the  
23 Commission's legal counsel or designee shall certify that the meeting may be  
24 closed and shall reference each relevant exempting provision. The  
25 Commission shall keep minutes that fully and clearly describe all matters  
26 discussed in a meeting and shall provide a full and accurate summary of  
27 actions taken, and the reasons therefor, including a description of the views

1           expressed. All documents considered in connection with an action shall be  
2           identified in such minutes. All minutes and documents of a closed meeting  
3           shall remain under seal, subject to release by a majority vote of the  
4           Commission or order of a court of competent jurisdiction.

- 5    c.   The Commission shall, by a majority vote of the administrators, prescribe bylaws or  
6           rules to govern its conduct as may be necessary or appropriate to carry out the  
7           purposes and exercise the powers of this Compact, including but not limited to:
- 8           1.   Establishing the fiscal year of the Commission;
  - 9           2.   Providing reasonable standards and procedures:
    - 10           i.   For the establishment and meetings of other committees; and
    - 11           ii.  Governing any general or specific delegation of any authority or  
12           function of the Commission;
  - 13          3.   Providing reasonable procedures for calling and conducting meetings of the  
14           Commission, ensuring reasonable advance notice of all meetings and  
15           providing an opportunity for attendance of such meetings by interested  
16           parties, with enumerated exceptions designed to protect the public's interest,  
17           the privacy of individuals, and proprietary information, including trade  
18           secrets. The Commission may meet in closed session only after a majority of  
19           the administrators vote to close a meeting in whole or in part. As soon as  
20           practicable, the Commission must make public a copy of the vote to close the  
21           meeting revealing the vote of each administrator, with no proxy votes  
22           allowed;
  - 23          4.   Establishing the titles, duties and authority and reasonable procedures for the  
24           election of the officers of the Commission;
  - 25          5.   Providing reasonable standards and procedures for the establishment of the  
26           personnel policies and programs of the Commission. Notwithstanding any  
27           civil service or other similar laws of any party state, the bylaws shall

- 1 exclusively govern the personnel policies and programs of the Commission;  
2 and
- 3 6. Providing a mechanism for winding up the operations of the Commission and  
4 the equitable disposition of any surplus funds that may exist after the  
5 termination of this Compact after the payment or reserving of all of its debts  
6 and obligations.
- 7 d. The Commission shall publish its bylaws and rules, and any amendments thereto, in  
8 a convenient form on the website~~[Web site]~~ of the Commission.
- 9 e. The Commission shall maintain its financial records in accordance with the bylaws.
- 10 f. The Commission shall meet and take such actions as are consistent with the  
11 provisions of this Compact and the bylaws.
- 12 g. The Commission shall have the following powers:
- 13 1. To promulgate uniform rules to facilitate and coordinate implementation and  
14 administration of this Compact. The rules shall have the force and effect of  
15 law and shall be binding in all party states;
- 16 2. To bring and prosecute legal proceedings or actions in the name of the  
17 Commission, provided that the standing of any licensing board to sue or be  
18 sued under applicable law shall not be affected;
- 19 3. To purchase and maintain insurance and bonds;
- 20 4. To borrow, accept or contract for services of personnel, including but not  
21 limited to employees of a party state or nonprofit organizations;
- 22 5. To cooperate with other organizations that administer state compacts related  
23 to the regulation of nursing, including but not limited to sharing  
24 administrative or staff expenses, office space or other resources;
- 25 6. To hire employees, elect or appoint officers, fix compensation, define duties,  
26 grant such individuals appropriate authority to carry out the purposes of this  
27 Compact, and to establish the Commission's personnel policies and programs

- 1 relating to conflicts of interest, qualifications of personnel and other related  
2 personnel matters;
- 3 7. To accept any and all appropriate donations, grants and gifts of money,  
4 equipment, supplies, materials and services, and to receive, utilize and dispose  
5 of the same; provided that at all times the Commission shall avoid any  
6 appearance of impropriety or conflict of interest;
- 7 8. To lease, purchase, accept appropriate gifts or donations of, or otherwise to  
8 own, hold, improve or use, any property, whether real, personal or mixed;  
9 provided that at all times the Commission shall avoid any appearance of  
10 impropriety;
- 11 9. To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise  
12 dispose of any property, whether real, personal or mixed;
- 13 10. To establish a budget and make expenditures;
- 14 11. To borrow money;
- 15 12. To appoint committees, including advisory committees comprised of  
16 administrators, state nursing regulators, state legislators or their  
17 representatives, and consumer representatives, and other such interested  
18 persons;
- 19 13. To provide and receive information from, and to cooperate with, law  
20 enforcement agencies;
- 21 14. To adopt and use an official seal; and
- 22 15. To perform such other functions as may be necessary or appropriate to  
23 achieve the purposes of this Compact consistent with the state regulation of  
24 nurse licensure and practice.
- 25 h. Financing of the Commission
- 26 1. The Commission shall pay, or provide for the payment of, the reasonable  
27 expenses of its establishment, organization and ongoing activities.



- 1           2.    The Commission may also levy on and collect an annual assessment from  
2           each party state to cover the cost of its operations, activities and staff in its  
3           annual budget as approved each year. The aggregate annual assessment  
4           amount, if any, shall be allocated based upon a formula to be determined by  
5           the Commission, which shall promulgate a rule that is binding upon all party  
6           states.
- 7           3.    The Commission shall not incur obligations of any kind prior to securing the  
8           funds adequate to meet the same; nor shall the Commission pledge the credit  
9           of any of the party states, except by, and with the authority of, such party  
10          state.
- 11          4.    The Commission shall keep accurate accounts of all receipts and  
12          disbursements. The receipts and disbursements of the Commission shall be  
13          subject to the audit and accounting procedures established under its bylaws.  
14          However, all receipts and disbursements of funds handled by the Commission  
15          shall be audited yearly by a certified or licensed public accountant, and the  
16          report of the audit shall be included in and become part of the annual report of  
17          the Commission.
- 18    i.    Qualified Immunity, Defense and Indemnification
- 19          1.    The administrators, officers, executive director, employees and  
20          representatives of the Commission shall be immune from suit and liability,  
21          either personally or in their official capacity, for any claim for damage to or  
22          loss of property or personal injury or other civil liability caused by or arising  
23          out of any actual or alleged act, error or omission that occurred, or that the  
24          person against whom the claim is made had a reasonable basis for believing  
25          occurred, within the scope of Commission employment, duties or  
26          responsibilities; provided that nothing in this paragraph shall be construed to  
27          protect any such person from suit or liability for any damage, loss, injury or

1 liability caused by the intentional, willful or wanton misconduct of that  
2 person.

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

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

## 22 ARTICLE VIII

### 23 Rulemaking

24 a. The Commission shall exercise its rulemaking powers pursuant to the criteria set  
25 forth in this Article and the rules adopted thereunder. Rules and amendments shall  
26 become binding as of the date specified in each rule or amendment and shall have  
27 the same force and effect as provisions of this Compact.

- 1 b. Rules or amendments to the rules shall be adopted at a regular or special meeting of  
2 the Commission.
- 3 c. Prior to promulgation and adoption of a final rule or rules by the Commission, and  
4 at least sixty (60) days in advance of the meeting at which the rule will be  
5 considered and voted upon, the Commission shall file a notice of proposed  
6 rulemaking:
- 7 1. On the website~~[Web site]~~ of the Commission; and  
8 2. On the website~~[Web site]~~ of each licensing board or the publication in which  
9 each state would otherwise publish proposed rules.
- 10 d. The notice of proposed rulemaking shall include:
- 11 1. The proposed time, date and location of the meeting in which the rule will be  
12 considered and voted upon;
- 13 2. The text of the proposed rule or amendment, and the reason for the proposed  
14 rule;
- 15 3. A request for comments on the proposed rule from any interested person; and  
16 4. The manner in which interested persons may submit notice to the Commission  
17 of their intention to attend the public hearing and any written comments.
- 18 e. Prior to adoption of a proposed rule, the Commission shall allow persons to submit  
19 written data, facts, opinions and arguments, which shall be made available to the  
20 public.
- 21 f. The Commission shall grant an opportunity for a public hearing before it adopts a  
22 rule or amendment.
- 23 g. The Commission shall publish the place, time and date of the scheduled public  
24 hearing.
- 25 1. Hearings shall be conducted in a manner providing each person who wishes to  
26 comment a fair and reasonable opportunity to comment orally or in writing.  
27 All hearings shall be recorded, and a copy shall be made available upon

- 1 request.
- 2 2. Nothing in this section shall be construed as requiring a separate hearing on  
3 each rule. Rules may be grouped for the convenience of the Commission at  
4 hearings required by this section.
- 5 h. If no one appears at the public hearing, the Commission may proceed with  
6 promulgation of the proposed rule.
- 7 i. Following the scheduled hearing date, or by the close of business on the scheduled  
8 hearing date if the hearing was not held, the Commission shall consider all written  
9 and oral comments received.
- 10 j. The Commission shall, by majority vote of all administrators, take final action on  
11 the proposed rule and shall determine the effective date of the rule, if any, based on  
12 the rulemaking record and the full text of the rule.
- 13 k. Upon determination that an emergency exists, the Commission may consider and  
14 adopt an emergency rule without prior notice, opportunity for comment or hearing,  
15 provided that the usual rulemaking procedures provided in this Compact and in this  
16 section shall be retroactively applied to the rule as soon as reasonably possible, in  
17 no event later than ninety (90) days after the effective date of the rule. For the  
18 purposes of this provision, an emergency rule is one that must be adopted  
19 immediately in order to:
- 20 1. Meet an imminent threat to public health, safety or welfare;  
21 2. Prevent a loss of Commission or party state funds; or  
22 3. Meet a deadline for the promulgation of an administrative rule that is required  
23 by federal law or rule.
- 24 l. The Commission may direct revisions to a previously adopted rule or amendment  
25 for purposes of correcting typographical errors, errors in format, errors in  
26 consistency or grammatical errors. Public notice of any revisions shall be posted on  
27 the website~~[Web site]~~ of the Commission. The revision shall be subject to challenge

1 by any person for a period of thirty (30) days after posting. The revision may be  
2 challenged only on grounds that the revision results in a material change to a rule. A  
3 challenge shall be made in writing, and delivered to the Commission, prior to the  
4 end of the notice period. If no challenge is made, the revision will take effect  
5 without further action. If the revision is challenged, the revision may not take effect  
6 without the approval of the Commission.

## 7 ARTICLE IX

### 8 Oversight, Dispute Resolution and Enforcement

#### 9 a. Oversight

- 10 1. Each party state shall enforce this Compact and take all actions necessary and  
11 appropriate to effectuate this Compact's purposes and intent.
- 12 2. The Commission shall be entitled to receive service of process in any  
13 proceeding that may affect the powers, responsibilities or actions of the  
14 Commission, and shall have standing to intervene in such a proceeding for all  
15 purposes. Failure to provide service of process in such proceeding to the  
16 Commission shall render a judgment or order void as to the Commission, this  
17 Compact or promulgated rules.

#### 18 b. Default, Technical Assistance and Termination

- 19 1. If the Commission determines that a party state has defaulted in the  
20 performance of its obligations or responsibilities under this Compact or the  
21 promulgated rules, the Commission shall:
- 22 i. Provide written notice to the defaulting state and other party states of the  
23 nature of the default, the proposed means of curing the default or any  
24 other action to be taken by the Commission; and
- 25 ii. Provide remedial training and specific technical assistance regarding the  
26 default.
- 27 2. If a state in default fails to cure the default, the defaulting state's membership

1 in this Compact may be terminated upon an affirmative vote of a majority of  
2 the administrators, and all rights, privileges and benefits conferred by this  
3 Compact may be terminated on the effective date of termination. A cure of the  
4 default does not relieve the offending state of obligations or liabilities  
5 incurred during the period of default.

6 3. Termination of membership in this Compact shall be imposed only after all  
7 other means of securing compliance have been exhausted. Notice of intent to  
8 suspend or terminate shall be given by the Commission to the governor of the  
9 defaulting state and to the executive officer of the defaulting state's licensing  
10 board and each of the party states.

11 4. A state whose membership in this Compact has been terminated is responsible  
12 for all assessments, obligations and liabilities incurred through the effective  
13 date of termination, including obligations that extend beyond the effective  
14 date of termination.

15 5. The Commission shall not bear any costs related to a state that is found to be  
16 in default or whose membership in this Compact has been terminated unless  
17 agreed upon in writing between the Commission and the defaulting state.

18 6. The defaulting state may appeal the action of the Commission by petitioning  
19 the United States District Court for the District of Columbia or the federal  
20 district in which the Commission has its principal offices. The prevailing  
21 party shall be awarded all costs of such litigation, including reasonable  
22 attorneys' fees.

23 c. Dispute Resolution

24 1. Upon request by a party state, the Commission shall attempt to resolve  
25 disputes related to the Compact that arise among party states and between  
26 party and non-party states.

27 2. The Commission shall promulgate a rule providing for both mediation and

- 1 binding dispute resolution for disputes, as appropriate.
- 2 3. In the event the Commission cannot resolve disputes among party states  
3 arising under this Compact:
- 4 i. The party states may submit the issues in dispute to an arbitration panel,  
5 which will be comprised of individuals appointed by the Compact  
6 administrator in each of the affected party states and an individual  
7 mutually agreed upon by the Compact administrators of all the party  
8 states involved in the dispute.
- 9 ii. The decision of a majority of the arbitrators shall be final and binding.
- 10 d. Enforcement
- 11 1. The Commission, in the reasonable exercise of its discretion, shall enforce the  
12 provisions and rules of this Compact.
- 13 2. By majority vote, the Commission may initiate legal action in the United  
14 States District Court for the District of Columbia or the federal district in  
15 which the Commission has its principal offices against a party state that is in  
16 default to enforce compliance with the provisions of this Compact and its  
17 promulgated rules and bylaws. The relief sought may include both injunctive  
18 relief and damages. In the event judicial enforcement is necessary, the  
19 prevailing party shall be awarded all costs of such litigation, including  
20 reasonable attorneys' fees.
- 21 3. The remedies herein shall not be the exclusive remedies of the Commission.  
22 The Commission may pursue any other remedies available under federal or  
23 state law.

## 24 ARTICLE X

### 25 Effective Date, Withdrawal and Amendment

- 26 a. This Compact shall become effective and binding on the earlier of the date of  
27 legislative enactment of this Compact into law by no fewer than twenty-six (26)

- 1 states or December 31, 2018. All party states to this Compact that also were parties  
2 to the prior Nurse Licensure Compact, superseded by this Compact ("Prior  
3 Compact"), shall be deemed to have withdrawn from said Prior Compact within six  
4 (6) months after the effective date of this Compact.
- 5 b. Each party state to this Compact shall continue to recognize a nurse's multistate  
6 licensure privilege to practice in that party state issued under the Prior Compact  
7 until such party state has withdrawn from the Prior Compact.
- 8 c. Any party state may withdraw from this Compact by enacting a statute repealing  
9 the same. A party state's withdrawal shall not take effect until six (6) months after  
10 enactment of the repealing statute.
- 11 d. A party state's withdrawal or termination shall not affect the continuing requirement  
12 of the withdrawing or terminated state's licensing board to report adverse actions  
13 and significant investigations occurring prior to the effective date of such  
14 withdrawal or termination.
- 15 e. Nothing contained in this Compact shall be construed to invalidate or prevent any  
16 nurse licensure agreement or other cooperative arrangement between a party state  
17 and a non-party state that is made in accordance with the other provisions of this  
18 Compact.
- 19 f. This Compact may be amended by the party states. No amendment to this Compact  
20 shall become effective and binding upon the party states unless and until it is  
21 enacted into the laws of all party states.
- 22 g. Representatives of non-party states to this Compact shall be invited to participate in  
23 the activities of the Commission, on a nonvoting basis, prior to the adoption of this  
24 Compact by all states.

## 25 ARTICLE XI

### 26 Construction and Severability

27 This Compact shall be liberally construed so as to effectuate the purposes thereof. The



1 provisions of this Compact shall be severable, and if any phrase, clause, sentence or  
2 provision of this Compact is declared to be contrary to the constitution of any party state  
3 or of the United States, or if the applicability thereof to any government, agency, person  
4 or circumstance is held invalid, the validity of the remainder of this Compact and the  
5 applicability thereof to any government, agency, person or circumstance shall not be  
6 affected thereby. If this Compact shall be held to be contrary to the constitution of any  
7 party state, this Compact shall remain in full force and effect as to the remaining party  
8 states and in full force and effect as to the party state affected as to all severable matters.

9 →Section 12. KRS 319.054 is amended to read as follows:

10 ARTICLE I

11 PURPOSE

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

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

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

22 Whereas, this Compact is intended to authorize State Psychology Regulatory Authorities  
23 to afford legal recognition, in a manner consistent with the terms of the Compact, to  
24 psychologists licensed in another state;

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

1 Whereas, this Compact does not apply when a psychologist is licensed in both the Home  
2 and Receiving States; and

3 Whereas, this Compact does not apply to permanent in-person, face-to-face practice, and  
4 it does allow for authorization of temporary psychological practice;

5 Consistent with these principles, this Compact is designed to achieve the following  
6 purposes and objectives:

- 7 1. Increase public access to professional psychological services by allowing for  
8 telepsychological practice across state lines as well as temporary in-person,  
9 face-to-face services into a state in which the psychologist is not licensed to  
10 practice psychology;
- 11 2. Enhance the states' ability to protect the public's health and safety, especially  
12 client/patient safety;
- 13 3. Encourage the cooperation of Compact States in the areas of psychology  
14 licensure and regulation;
- 15 4. Facilitate the exchange of information between Compact States regarding  
16 psychologist licensure, adverse actions and disciplinary history;
- 17 5. Promote compliance with the laws governing psychological practice in each  
18 Compact State; and
- 19 6. Invest all Compact States with the authority to hold licensed psychologists  
20 accountable through the mutual recognition of Compact State licenses.

## 21 ARTICLE II

### 22 DEFINITIONS

23 A. "Adverse Action" means: any action taken by a State Psychology Regulatory  
24 Authority which finds a violation of a statute or regulation that is identified by the  
25 State Psychology Regulatory Authority as discipline and is a matter of public  
26 record.

27 B. "Association of State and Provincial Psychology Boards (ASPPB)" means: the

- 1 recognized membership organization composed of State and Provincial Psychology  
2 Regulatory Authorities responsible for the licensure and registration of  
3 psychologists throughout the United States and Canada.
- 4 C. "Authority to Practice Interjurisdictional Telepsychology" means: a licensed  
5 psychologist's authority to practice telepsychology, within the limits authorized  
6 under this Compact, in another Compact State.
- 7 D. "Bylaws" means: those Bylaws established by the Psychology Interjurisdictional  
8 Compact Commission pursuant to Article X for its governance, or for directing and  
9 controlling its actions and conduct.
- 10 E. "Client/Patient" means: the recipient of psychological services, whether  
11 psychological services are delivered in the context of healthcare, corporate,  
12 supervision, and/or consulting services.
- 13 F. "Commissioner" means: the voting representative appointed by each State  
14 Psychology Regulatory Authority pursuant to Article X.
- 15 G. "Compact State" means: a state, the District of Columbia, or United States territory  
16 that has enacted this Compact legislation and which has not withdrawn pursuant to  
17 Article XIII, Section C or been terminated pursuant to Article XII, Section B.
- 18 H. "Coordinated Licensure Information System" also referred to as "Coordinated  
19 Database" means: an integrated process for collecting, storing, and sharing  
20 information on psychologists' licensure and enforcement activities related to  
21 psychology licensure laws, which is administered by the recognized membership  
22 organization composed of State and Provincial Psychology Regulatory Authorities.
- 23 I. "Confidentiality" means: the principle that data or information is not made available  
24 or disclosed to unauthorized persons and/or processes.
- 25 J. "Day" means: any part of a day in which psychological work is performed.
- 26 K. "Distant State" means: the Compact State where a psychologist is physically  
27 present (not through the use of telecommunications technologies), to provide

- 1 temporary in-person, face-to-face psychological services.
- 2 L. "E.Passport" means: a certificate issued by the Association of State and Provincial  
3 Psychology Boards (ASPPB) that promotes the standardization in the criteria of  
4 interjurisdictional telepsychology practice and facilitates the process for licensed  
5 psychologists to provide telepsychological services across state lines.
- 6 M. "Executive Board" means: a group of directors elected or appointed to act on behalf  
7 of, and within the powers granted to them by, the Commission.
- 8 N. "Home State" means: a Compact State where a psychologist is licensed to practice  
9 psychology. If the psychologist is licensed in more than one Compact State and is  
10 practicing under the Authorization to Practice Interjurisdictional Telepsychology,  
11 the Home State is the Compact State where the psychologist is physically present  
12 when the telepsychological services are delivered. If the psychologist is licensed in  
13 more than one Compact State and is practicing under the Temporary Authorization  
14 to Practice, the Home State is any Compact State where the psychologist is  
15 licensed.
- 16 O. "Identity History Summary" means: a summary of information retained by the  
17 Federal Bureau of Investigation, or other designee with similar authority, in  
18 connection with arrests and, in some instances, federal employment, naturalization,  
19 or military service.
- 20 P. "In-Person, Face-to-Face" means: interactions in which the psychologist and the  
21 client/patient are in the same physical space and which does not include interactions  
22 that may occur through the use of telecommunication technologies.
- 23 Q. "Interjurisdictional Practice Certificate (IPC)" means: a certificate issued by the  
24 Association of State and Provincial Psychology Boards (ASPPB) that grants  
25 temporary authority to practice based on notification to the State Psychology  
26 Regulatory Authority of intention to practice temporarily, and verification of one's  
27 qualifications for such practice.

- 1 R. "License" means: authorization by a State Psychology Regulatory Authority to  
2 engage in the independent practice of psychology, which would be unlawful  
3 without the authorization.
- 4 S. "Non-Compact State" means: any State which is not at the time a Compact State.
- 5 T. "Psychologist" means: an individual licensed for the independent practice of  
6 psychology.
- 7 U. "Psychology Interjurisdictional Compact Commission" also referred to as  
8 "Commission" means: the national administration of which all Compact States are  
9 members.
- 10 V. "Receiving State" means: a Compact State where the client/patient is physically  
11 located when the telepsychological services are delivered.
- 12 W. "Rule" means: a written statement by the Psychology Interjurisdictional Compact  
13 Commission promulgated pursuant to Article XI of the Compact that is of general  
14 applicability, implements, interprets, or prescribes a policy or provision of the  
15 Compact, or an organizational, procedural, or practice requirement of the  
16 Commission and has the force and effect of statutory law in a Compact State, and  
17 includes the amendment, repeal or suspension of an existing rule.
- 18 X. "Significant Investigatory Information" means:
- 19 1. Investigative information that a State Psychology Regulatory Authority, after  
20 a preliminary inquiry that includes notification and an opportunity to respond  
21 if required by state law, has reason to believe, if proven true, would indicate  
22 more than a violation of state statute or ethics code that would be considered  
23 more substantial than minor infraction; or
- 24 2. Investigative information that indicates that the psychologist represents an  
25 immediate threat to public health and safety regardless of whether the  
26 psychologist has been notified and/or had an opportunity to respond.
- 27 Y. "State" means: a state, commonwealth, territory, or possession of the United States,

1 and the District of Columbia.

2 Z. "State Psychology Regulatory Authority" means: the Board, office or other agency  
3 with the legislative mandate to license and regulate the practice of psychology.

4 AA. "Telepsychology" means: the provision of psychological services using  
5 telecommunication technologies.

6 BB. "Temporary Authorization to Practice" means: a licensed psychologist's authority to  
7 conduct temporary in-person, face-to-face practice, within the limits authorized  
8 under this Compact, in another Compact State.

9 CC. "Temporary In-Person, Face-to-Face Practice" means: where a psychologist is  
10 physically present (not through the use of telecommunications technologies), in the  
11 Distant State to provide for the practice of psychology for thirty (30) days within a  
12 calendar year and based on notification to the Distant State.

13 ARTICLE III

14 HOME STATE LICENSURE

15 A. The Home State shall be a Compact State where a psychologist is licensed to  
16 practice psychology.

17 B. A psychologist may hold one or more Compact State licenses at a time. If the  
18 psychologist is licensed in more than one Compact State, the Home State is the  
19 Compact State where the psychologist is physically present when the services are  
20 delivered as authorized by the Authority to Practice Interjurisdictional  
21 Telepsychology under the terms of this Compact.

22 C. Any Compact State may require a psychologist not previously licensed in a  
23 Compact State to obtain and retain a license to be authorized to practice in the  
24 Compact State under circumstances not authorized by the Authority to Practice  
25 Interjurisdictional Telepsychology under the terms of this Compact.

26 D. Any Compact State may require a psychologist to obtain and retain a license to be  
27 authorized to practice in a Compact State under circumstances not authorized by

1 Temporary Authorization to Practice under the terms of this Compact.

2 E. A Home State's license authorizes a psychologist to practice in a Receiving State  
3 under the Authority to Practice Interjurisdictional Telepsychology only if the  
4 Compact State:

- 5 1. Currently requires the psychologist to hold an active E.Passport;
- 6 2. Has a mechanism in place for receiving and investigating complaints about  
7 licensed individuals;
- 8 3. Notifies the Commission, in compliance with the terms herein, of any adverse  
9 action or significant investigatory information regarding a licensed individual;
- 10 4. Requires an Identity History Summary of all applicants at initial licensure,  
11 including the use of the results of fingerprints or other biometric data checks  
12 compliant with the requirements of the Federal Bureau of Investigation, or  
13 other designee with similar authority, no later than ten (10) years after  
14 activation of the Compact; and
- 15 5. Complies with the Bylaws and Rules of the Commission.

16 F. A Home State's license grants Temporary Authorization to Practice to a  
17 psychologist in a Distant State only if the Compact State:

- 18 1. Currently requires the psychologist to hold an active IPC;
- 19 2. Has a mechanism in place for receiving and investigating complaints about  
20 licensed individuals;
- 21 3. Notifies the Commission, in compliance with the terms herein, of any adverse  
22 action or significant investigatory information regarding a licensed individual;
- 23 4. Requires an Identity History Summary of all applicants at initial licensure,  
24 including the use of the results of fingerprints or other biometric data checks  
25 compliant with the requirements of the Federal Bureau of Investigation, or  
26 other designee with similar authority, no later than ten (10) years after  
27 activation of the Compact; and

1           5.    Complies with the Bylaws and Rules of the Commission.

2

#### ARTICLE IV

3

#### COMPACT PRIVILEGE TO PRACTICE TELEPSYCHOLOGY

4

A.   Compact States shall recognize the right of a psychologist, licensed in a Compact State in conformance with Article III, to practice telepsychology in other Compact States (Receiving States) in which the psychologist is not licensed, under the Authority to Practice Interjurisdictional Telepsychology as provided in the Compact.

5

6

B.   To exercise the Authority to Practice Interjurisdictional Telepsychology under the terms and provisions of this Compact, a psychologist licensed to practice in a Compact State must:

7

8

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

9

10

a.   Regionally accredited by an accrediting body recognized by the United States Department of Education to grant graduate degrees, OR authorized by Provincial Statute or Royal Charter to grant doctoral degrees; OR

11

12

13

b.   A foreign college or university deemed to be equivalent to 1.a. above by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES) or by a recognized foreign credential evaluation service; AND

14

15

16

2.   Hold a graduate degree in psychology that meets the following criteria:

17

18

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

19

20

21

b.   The psychology program must stand as a recognizable, coherent,

22

23

24

25



- 1 organizational entity within the institution;
- 2 c. There must be a clear authority and primary responsibility for the core  
3 and specialty areas whether or not the program cuts across  
4 administrative lines;
- 5 d. The program must consist of an integrated, organized sequence of study;
- 6 e. There must be an identifiable psychology faculty sufficient in size and  
7 breadth to carry out its responsibilities;
- 8 f. The designated director of the program must be a psychologist and a  
9 member of the core faculty;
- 10 g. The program must have an identifiable body of students who are  
11 matriculated in that program for a degree;
- 12 h. The program must include supervised practicum, internship, or field  
13 training appropriate to the practice of psychology;
- 14 i. The curriculum shall encompass a minimum of three (3) academic years  
15 of full-time graduate study for doctoral degree and a minimum of one  
16 (1) academic year of full-time graduate study for master's degree; and
- 17 j. The program includes an acceptable residency as defined by the Rules  
18 of the Commission;
- 19 3. Possess a current, full and unrestricted license to practice psychology in a  
20 Home State which is a Compact State;
- 21 4. Have no history of adverse action that violates the Rules of the Commission;
- 22 5. Have no criminal record history reported on an Identity History Summary that  
23 violates the Rules of the Commission;
- 24 6. Possess a current, active E.Passport;
- 25 7. Provide attestations in regard to areas of intended practice, conformity with  
26 standards of practice, competence in telepsychology technology; criminal  
27 background; and knowledge and adherence to legal requirements in the home

1 and receiving states, and provide a release of information to allow for primary  
2 source verification in a manner specified by the Commission; and

3 8. Meet other criteria as defined by the Rules of the Commission.

4 C. The Home State maintains authority over the license of any psychologist practicing  
5 into a Receiving State under the Authority to Practice Interjurisdictional  
6 Telepsychology.

7 D. A psychologist practicing into a Receiving State under the Authority to Practice  
8 Interjurisdictional Telepsychology will be subject to the Receiving State's scope of  
9 practice. A Receiving State may, in accordance with that state's due process law,  
10 limit or revoke a psychologist's Authority to Practice Interjurisdictional  
11 Telepsychology in the Receiving State and may take any other necessary actions  
12 under the Receiving State's applicable law to protect the health and safety of the  
13 Receiving State's citizens. If a Receiving State takes action, the state shall promptly  
14 notify the Home State and the Commission.

15 E. If a psychologist's license in any Home State, another Compact State, or any  
16 Authority to Practice Interjurisdictional Telepsychology in any Receiving State, is  
17 restricted, suspended or otherwise limited, the E.Passport shall be revoked and  
18 therefore the psychologist shall not be eligible to practice telepsychology in a  
19 Compact State under the Authority to Practice Interjurisdictional Telepsychology.

## 20 ARTICLE V

### 21 COMPACT TEMPORARY AUTHORIZATION TO PRACTICE

22 A. Compact States shall also recognize the right of a psychologist, licensed in a  
23 Compact State in conformance with Article III, to practice temporarily in other  
24 Compact States (Distant States) in which the psychologist is not licensed, as  
25 provided in the Compact.

26 B. To exercise the Temporary Authorization to Practice under the terms and provisions  
27 of this Compact, a psychologist licensed to practice in a Compact State must:

- 1           1.    Hold a graduate degree in psychology from an institute of higher education  
2           that was, at the time the degree was awarded:
  - 3           a.    Regionally accredited by an accrediting body recognized by the United  
4           States Department of Education to grant graduate degrees, OR  
5           authorized by Provincial Statute or Royal Charter to grant doctoral  
6           degrees; OR
  - 7           b.    A foreign college or university deemed to be equivalent to 1.a. above by  
8           a foreign credential evaluation service that is a member of the National  
9           Association of Credential Evaluation Services (NACES) or by a  
10          recognized foreign credential evaluation service; AND
- 11          2.    Hold a graduate degree in psychology that meets the following criteria:
  - 12          a.    The program, wherever it may be administratively housed, must be  
13          clearly identified and labeled as a psychology program. Such a program  
14          must specify in pertinent institutional catalogues and brochures its intent  
15          to educate and train professional psychologists;
  - 16          b.    The psychology program must stand as a recognizable, coherent,  
17          organizational entity within the institution;
  - 18          c.    There must be a clear authority and primary responsibility for the core  
19          and specialty areas whether or not the program cuts across  
20          administrative lines;
  - 21          d.    The program must consist of an integrated, organized sequence of study;
  - 22          e.    There must be an identifiable psychology faculty sufficient in size and  
23          breadth to carry out its responsibilities;
  - 24          f.    The designated director of the program must be a psychologist and a  
25          member of the core faculty;
  - 26          g.    The program must have an identifiable body of students who are  
27          matriculated in that program for a degree;

- 1           h. The program must include supervised practicum, internship, or field
- 2           training appropriate to the practice of psychology;
- 3           i. The curriculum shall encompass a minimum of three (3) academic years
- 4           of full-time graduate study for doctoral degrees and a minimum of one
- 5           (1) academic year of full-time graduate study for master's degree;
- 6           j. The program includes an acceptable residency as defined by the Rules
- 7           of the Commission;
- 8           3. Possess a current, full and unrestricted license to practice psychology in a
- 9           Home State which is a Compact State;
- 10          4. Have no history of adverse action that violate the Rules of the Commission;
- 11          5. Have no criminal record history that violates the Rules of the Commission;
- 12          6. Possess a current, active IPC;
- 13          7. Provide attestations in regard to areas of intended practice and work
- 14          experience and provide a release of information to allow for primary source
- 15          verification in a manner specified by the Commission; and
- 16          8. Meet other criteria as defined by the Rules of the Commission.
- 17    C. A psychologist practicing into a Distant State under the Temporary Authorization to
- 18    Practice shall practice within the scope of practice authorized by the Distant State.
- 19    D. A psychologist practicing into a Distant State under the Temporary Authorization to
- 20    Practice will be subject to the Distant State's authority and law. A Distant State
- 21    may, in accordance with that state's due process law, limit or revoke a
- 22    psychologist's Temporary Authorization to Practice in the Distant State and may
- 23    take any other necessary actions under the Distant State's applicable law to protect
- 24    the health and safety of the Distant State's citizens. If a Distant State takes action,
- 25    the state shall promptly notify the Home State and the Commission.
- 26    E. If a psychologist's license in any Home State, another Compact State, or any
- 27    Temporary Authorization to Practice in any Distant State, is restricted, suspended

1 or otherwise limited, the IPC shall be revoked and therefore the psychologist shall  
2 not be eligible to practice in a Compact State under the Temporary Authorization to  
3 Practice.

#### 4 ARTICLE VI

#### 5 CONDITIONS OF TELEPSYCHOLOGY PRACTICE IN A RECEIVING STATE

6 A. A psychologist may practice in a Receiving State under the Authority to Practice  
7 Interjurisdictional Telepsychology only in the performance of the scope of practice  
8 for psychology as assigned by an appropriate State Psychology Regulatory  
9 Authority, as defined in the Rules of the Commission, and under the following  
10 circumstances:

- 11 1. The psychologist initiates a client/patient contact in a Home State via  
12 telecommunications technologies with a client/patient in a Receiving State;
- 13 2. Other conditions regarding telepsychology as determined by Rules  
14 promulgated by the Commission.

#### 15 ARTICLE VII

#### 16 ADVERSE ACTIONS

17 A. A Home State shall have the power to impose adverse action against a  
18 psychologist's license issued by the Home State. A Distant State shall have the  
19 power to take adverse action on a psychologist's Temporary Authorization to  
20 Practice within that Distant State.

21 B. A Receiving State may take adverse action on a psychologist's Authority to Practice  
22 Interjurisdictional Telepsychology within that Receiving State. A Home State may  
23 take adverse action against a psychologist based on an adverse action taken by a  
24 Distant State regarding temporary in-person, face-to-face practice.

25 C. If a Home State takes adverse action against a psychologist's license, that  
26 psychologist's Authority to Practice Interjurisdictional Telepsychology is  
27 terminated and the E.Passport is revoked. Furthermore, that psychologist's

- 1 Temporary Authorization to Practice is terminated and the IPC is revoked.
- 2 1. All Home State disciplinary orders which impose adverse action shall be  
3 reported to the Commission in accordance with the Rules promulgated by the  
4 Commission. A Compact State shall report adverse actions in accordance with  
5 the Rules of the Commission.
- 6 2. In the event discipline is reported on a psychologist, the psychologist will not  
7 be eligible for telepsychology or temporary in-person, face-to-face practice in  
8 accordance with the Rules of the Commission.
- 9 3. Other actions may be imposed as determined by the Rules promulgated by the  
10 Commission.
- 11 D. A Home State's Psychology Regulatory Authority shall investigate and take  
12 appropriate action with respect to reported inappropriate conduct engaged in by a  
13 licensee which occurred in a Receiving State as it would if such conduct had  
14 occurred by a licensee within the Home State. In such cases, the Home State's law  
15 shall control in determining any adverse action against a psychologist's license.
- 16 E. A Distant State's Psychology Regulatory Authority shall investigate and take  
17 appropriate action with respect to reported inappropriate conduct engaged in by a  
18 psychologist practicing under Temporary Authorization Practice which occurred in  
19 that Distant State as it would if such conduct had occurred by a licensee within the  
20 Home State. In such cases, Distant State's law shall control in determining any  
21 adverse action against a psychologist's Temporary Authorization to Practice.
- 22 F. Nothing in this Compact shall override a Compact State's decision that a  
23 psychologist's participation in an alternative program may be used in lieu of adverse  
24 action and that such participation shall remain non-public if required by the  
25 Compact State's law. Compact States must require psychologists who enter any  
26 alternative programs to not provide telepsychology services under the Authority to  
27 Practice Interjurisdictional Telepsychology or provide temporary psychological

1 services under the Temporary Authorization to Practice in any other Compact State  
2 during the term of the alternative program.

3 G. No other judicial or administrative remedies shall be available to a psychologist in  
4 the event a Compact State imposes an adverse action pursuant to subsection C,  
5 above.

## 6 ARTICLE VIII

### 7 ADDITIONAL AUTHORITIES INVESTED IN A COMPACT STATE'S

#### 8 PSYCHOLOGY REGULATORY AUTHORITY

9 A. In addition to any other powers granted under state law, a Compact State's  
10 Psychology Regulatory Authority shall have the authority under this Compact to:

11 1. Issue subpoenas, for both hearings and investigations, which require the  
12 attendance and testimony of witnesses and the production of evidence.  
13 Subpoenas issued by a Compact State's Psychology Regulatory Authority for  
14 the attendance and testimony of witnesses, and/or the production of evidence  
15 from another Compact State shall be enforced in the latter state by any court  
16 of competent jurisdiction, according to that court's practice and procedure in  
17 considering subpoenas issued in its own proceedings. The issuing State  
18 Psychology Regulatory Authority shall pay any witness fees, travel expenses,  
19 mileage and other fees required by the service statutes of the state where the  
20 witnesses and/or evidence are located; and

21 2. Issue cease and desist and/or injunctive relief orders to revoke a psychologist's  
22 Authority to Practice Interjurisdictional Telepsychology and/or Temporary  
23 Authorization to Practice.

24 3. During the course of any investigation, a psychologist may not change his/her  
25 Home State licensure. A Home State Psychology Regulatory Authority is  
26 authorized to complete any pending investigations of a psychologist and to  
27 take any actions appropriate under its law. The Home State Psychology

1 Regulatory Authority shall promptly report the conclusions of such  
2 investigations to the Commission. Once an investigation has been completed,  
3 and pending the outcome of said investigation, the psychologist may change  
4 his/her Home State licensure. The Commission shall promptly notify the new  
5 Home State of any such decisions as provided in the Rules of the  
6 Commission. All information provided to the Commission or distributed by  
7 Compact States pursuant to the psychologist shall be confidential, filed under  
8 seal and used for investigatory or disciplinary matters. The Commission may  
9 create additional rules for mandated or discretionary sharing of information by  
10 Compact States.

## 11 ARTICLE IX

### 12 COORDINATED LICENSURE INFORMATION SYSTEM

- 13 A. The Commission shall provide for the development and maintenance of a  
14 Coordinated Licensure Information System (Coordinated Database) and reporting  
15 system containing licensure and disciplinary action information on all psychologists  
16 individuals to whom this Compact is applicable in all Compact States as defined by  
17 the Rules of the Commission.
- 18 B. Notwithstanding any other provision of state law to the contrary, a Compact State  
19 shall submit a uniform data set to the Coordinated Database on all licensees as  
20 required by the Rules of the Commission, including:
- 21 1. Identifying information;
  - 22 2. Licensure data;
  - 23 3. Significant investigatory information;
  - 24 4. Adverse actions against a psychologist's license;
  - 25 5. An indicator that a psychologist's Authority to Practice Interjurisdictional  
26 Telepsychology and/or Temporary Authorization to Practice is revoked;
  - 27 6. Non-confidential information related to alternative program participation



1 information;

2 7. Any denial of application for licensure, and the reasons for such denial; and

3 8. Other information which may facilitate the administration of this Compact, as  
4 determined by the Rules of the Commission.

5 C. The Coordinated Database administrator shall promptly notify all Compact States  
6 of any adverse action taken against, or significant investigative information on, any  
7 licensee in a Compact State.

8 D. Compact States reporting information to the Coordinated Database may designate  
9 information that may not be shared with the public without the express permission  
10 of the Compact State reporting the information.

11 E. Any information submitted to the Coordinated Database that is subsequently  
12 required to be expunged by the law of the Compact State reporting the information  
13 shall be removed from the Coordinated Database.

14 ARTICLE X

15 ESTABLISHMENT OF THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT  
16 COMMISSION

17 A. The Compact States hereby create and establish a joint public agency known as the  
18 Psychology Interjurisdictional Compact Commission.

19 1. The Commission is a body politic and an instrumentality of the Compact  
20 States.

21 2. Venue is proper and judicial proceedings by or against the Commission shall  
22 be brought solely and exclusively in a court of competent jurisdiction where  
23 the principal office of the Commission is located. The Commission may  
24 waive venue and jurisdictional defenses to the extent it adopts or consents to  
25 participate in alternative dispute resolution proceedings.

26 3. Nothing in this Compact shall be construed to be a waiver of sovereign  
27 immunity.

1 B. Membership, Voting, and Meetings

2 1. The Commission shall consist of one voting representative appointed by each  
3 Compact State who shall serve as that state's Commissioner. The State  
4 Psychology Regulatory Authority shall appoint its delegate. This delegate  
5 shall be empowered to act on behalf of the Compact State. This delegate shall  
6 be limited to:

7 a. Executive Director, Executive Secretary or similar executive;

8 b. Current member of the State Psychology Regulatory Authority of a  
9 Compact State; OR

10 c. Designee empowered with the appropriate delegate authority to act on  
11 behalf of the Compact State.

12 2. Any Commissioner may be removed or suspended from office as provided by  
13 the law of the state from which the Commissioner is appointed. Any vacancy  
14 occurring in the Commission shall be filled in accordance with the laws of the  
15 Compact State in which the vacancy exists.

16 3. Each Commissioner shall be entitled to one (1) vote with regard to the  
17 promulgation of Rules and creation of Bylaws and shall otherwise have an  
18 opportunity to participate in the business and affairs of the Commission. A  
19 Commissioner shall vote in person or by such other means as provided in the  
20 Bylaws. The Bylaws may provide for Commissioners' participation in  
21 meetings by telephone or other means of communication.

22 4. The Commission shall meet at least once during each calendar year.  
23 Additional meetings shall be held as set forth in the Bylaws.

24 5. All meetings shall be open to the public, and public notice of meetings shall  
25 be given in the same manner as required under the rulemaking provisions in  
26 Article XI.

27 6. The Commission may convene in a closed, non-public meeting if the

- 1 Commission must discuss:
- 2 a. Non-compliance of a Compact State with its obligations under the
- 3 Compact;
- 4 b. The employment, compensation, discipline or other personnel matters,
- 5 practices or procedures related to specific employees or other matters
- 6 related to the Commission's internal personnel practices and procedures;
- 7 c. Current, threatened, or reasonably anticipated litigation against the
- 8 Commission;
- 9 d. Negotiation of contracts for the purchase or sale of goods, services or
- 10 real estate;
- 11 e. Accusation against any person of a crime or formally censuring any
- 12 person;
- 13 f. Disclosure of trade secrets or commercial or financial information which
- 14 is privileged or confidential;
- 15 g. Disclosure of information of a personal nature where disclosure would
- 16 constitute a clearly unwarranted invasion of personal privacy;
- 17 h. Disclosure of investigatory records compiled for law enforcement
- 18 purposes;
- 19 i. Disclosure of information related to any investigatory reports prepared
- 20 by or on behalf of or for use of the Commission or other committee
- 21 charged with responsibility for investigation or determination of
- 22 compliance issues pursuant to the Compact; or
- 23 j. Matters specifically exempted from disclosure by federal and state
- 24 statute.
- 25 7. If a meeting, or portion of a meeting, is closed pursuant to this provision, the
- 26 Commission's legal counsel or designee shall certify that the meeting may be
- 27 closed and shall reference each relevant exempting provision. The

1 Commission shall keep minutes which fully and clearly describe all matters  
2 discussed in a meeting and shall provide a full and accurate summary of  
3 actions taken, of any person participating in the meeting, and the reasons  
4 therefor, including a description of the views expressed. All documents  
5 considered in connection with an action shall be identified in such minutes.  
6 All minutes and documents of a closed meeting shall remain under seal,  
7 subject to release only by a majority vote of the Commission or order of a  
8 court of competent jurisdiction.

9 C. The Commission shall, by a majority vote of the Commissioners, prescribe Bylaws  
10 and/or Rules to govern its conduct as may be necessary or appropriate to carry out  
11 the purposes and exercise the powers of the Compact, including but not limited to:

- 12 1. Establishing the fiscal year of the Commission;
- 13 2. Providing reasonable standards and procedures:
  - 14 a. For the establishment and meetings of other committees; and
  - 15 b. Governing any general or specific delegation of any authority or  
16 function of the Commission;
- 17 3. Providing reasonable procedures for calling and conducting meetings of the  
18 Commission, ensuring reasonable advance notice of all meetings and  
19 providing an opportunity for attendance of such meetings by interested  
20 parties, with enumerated exceptions designed to protect the public's interest,  
21 the privacy of individuals of such proceedings, and proprietary information,  
22 including trade secrets. The Commission may meet in closed session only  
23 after a majority of the Commissioners vote to close a meeting to the public in  
24 whole or in part. As soon as practicable, the Commission must make public a  
25 copy of the vote to close the meeting revealing the vote of each Commissioner  
26 with no proxy votes allowed;
- 27 4. Establishing the titles, duties and authority and reasonable procedures for the

- 1 election of the officers of the Commission;
- 2 5. Providing reasonable standards and procedures for the establishment of the
- 3 personnel policies and programs of the Commission. Notwithstanding any
- 4 civil service or other similar law of any Compact State, the Bylaws shall
- 5 exclusively govern the personnel policies and programs of the Commission;
- 6 6. Promulgating a Code of Ethics to address permissible and prohibited activities
- 7 of Commission members and employees;
- 8 7. Providing a mechanism for concluding the operations of the Commission and
- 9 the equitable disposition of any surplus funds that may exist after the
- 10 termination of the Compact after the payment and/or reserving of all of its
- 11 debts and obligations;
- 12 8. The Commission shall publish its Bylaws in a convenient form and file a copy
- 13 thereof and a copy of any amendment thereto, with the appropriate agency or
- 14 officer in each of the Compact States;
- 15 9. The Commission shall maintain its financial records in accordance with the
- 16 Bylaws; and
- 17 10. The Commission shall meet and take such actions as are consistent with the
- 18 provisions of this Compact and the Bylaws.
- 19 D. The Commission shall have the following powers:
- 20 1. The authority to promulgate uniform rules to facilitate and coordinate
- 21 implementation and administration of this Compact. The rule shall have the
- 22 force and effect of law and shall be binding in all Compact States;
- 23 2. To bring and prosecute legal proceedings or actions in the name of the
- 24 Commission, provided that the standing of any State Psychology Regulatory
- 25 Authority or other regulatory body responsible for psychology licensure to sue
- 26 or be sued under applicable law shall not be affected;
- 27 3. To purchase and maintain insurance and bonds;

- 1       4. To borrow, accept or contract for services of personnel, including but not  
2       limited to employees of a Compact State;
- 3       5. To hire employees, elect or appoint officers, fix compensation, define duties,  
4       grant such individuals appropriate authority to carry out the purposes of the  
5       Compact, and to establish the Commission's personnel policies and programs  
6       relating to conflicts of interest, qualifications of personnel, and other related  
7       personnel matters;
- 8       6. To accept any and all appropriate donations and grants of money, equipment,  
9       supplies, materials and services, and to receive, utilize and dispose of the  
10      same; provided that at all times the Commission shall strive to avoid any  
11      appearance of impropriety and/or conflict of interest;
- 12      7. To lease, purchase, accept appropriate gifts or donations of, or otherwise to  
13      own, hold, improve or use, any property, real, personal or mixed; provided  
14      that at all times the Commission shall strive to avoid any appearance of  
15      impropriety;
- 16      8. To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise  
17      dispose of any property real, personal or mixed;
- 18      9. To establish a budget and make expenditures;
- 19      10. To borrow money;
- 20      11. To appoint committees, including advisory committees composed of  
21      Members, State regulators, State legislators or their representatives, and  
22      consumer representatives, and such other interested persons as may be  
23      designated in this Compact and the Bylaws;
- 24      12. To provide and receive information from, and to cooperate with, law  
25      enforcement agencies;
- 26      13. To adopt and use an official seal; and
- 27      14. To perform such other functions as may be necessary or appropriate to

1 achieve the purposes of this Compact consistent with the state regulation of  
2 psychology licensure, temporary in-person, face-to-face practice and  
3 telepsychology practice.

4 E. The Executive Board

5 The elected officers shall serve as the Executive Board, which shall have the power  
6 to act on behalf of the Commission according to the terms of this Compact.

7 1. The Executive Board shall be composed of six (6) members:

8 a. Five (5) voting members who are elected from the current membership  
9 of the Commission by the Commission;

10 b. One ex officio, nonvoting member from the recognized membership  
11 organization composed of State and Provincial Psychology Regulatory  
12 Authorities.

13 2. The ex officio member must have served as staff or member on a State  
14 Psychology Regulatory Authority and will be selected by its respective  
15 organization.

16 3. The Commission may remove any member of the Executive Board as  
17 provided in Bylaws.

18 4. The Executive Board shall meet at least annually.

19 5. The Executive Board shall have the following duties and responsibilities:

20 a. Recommend to the entire Commission changes to the Rules or Bylaws,  
21 changes to this Compact legislation, fees paid by Compact States such  
22 as annual dues, and any other applicable fees;

23 b. Ensure Compact administration services are appropriately provided,  
24 contractual or otherwise;

25 c. Prepare and recommend the budget;

26 d. Maintain financial records on behalf of the Commission;

27 e. Monitor Compact compliance of member states and provide compliance

1 reports to the Commission;

2 f. Establish additional committees as necessary; and

3 g. Other duties as provided in Rules or Bylaws.

4 F. Financing of the Commission

5 1. The Commission shall pay, or provide for the payment of the reasonable  
6 expenses of its establishment, organization and ongoing activities.

7 2. The Commission may accept any and all appropriate revenue sources,  
8 donations and grants of money, equipment, supplies, materials and services.

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

17 4. The Commission shall not incur obligations of any kind prior to securing the  
18 funds adequate to meet the same; nor shall the Commission pledge the credit  
19 of any of the Compact States, except by and with the authority of the Compact  
20 State.

21 5. The Commission shall keep accurate accounts of all receipts and  
22 disbursements. The receipts and disbursements of the Commission shall be  
23 subject to the audit and accounting procedures established under its Bylaws.  
24 However, all receipts and disbursements of funds handled by the Commission  
25 shall be audited yearly by a certified or licensed public accountant and the  
26 report of the audit shall be included in and become part of the annual report of  
27 the Commission.



- 1 G. Qualified Immunity, Defense, and Indemnification
- 2 1. The members, officers, Executive Director, employees and representatives of
- 3 the Commission shall be immune from suit and liability, either personally or
- 4 in their official capacity, for any claim for damage to or loss of property or
- 5 personal injury or other civil liability caused by or arising out of any actual or
- 6 alleged act, error or omission that occurred, or that the person against whom
- 7 the claim is made had a reasonable basis for believing occurred within the
- 8 scope of Commission employment, duties or responsibilities; provided that
- 9 nothing in this paragraph shall be construed to protect any such person from
- 10 suit and/or liability for any damage, loss, injury or liability caused by the
- 11 intentional or willful or wanton misconduct of that person.
- 12 2. The Commission shall defend any member, officer, Executive Director,
- 13 employee or representative of the Commission in any civil action seeking to
- 14 impose liability arising out of any actual or alleged act, error or omission that
- 15 occurred within the scope of Commission employment, duties or
- 16 responsibilities, or that the person against whom the claim is made had a
- 17 reasonable basis for believing occurred within the scope of Commission
- 18 employment, duties or responsibilities; provided that nothing herein shall be
- 19 construed to prohibit that person from retaining his or her own counsel; and
- 20 provided further, that the actual or alleged act, error or omission did not result
- 21 from that person's intentional or willful or wanton misconduct.
- 22 3. The Commission shall indemnify and hold harmless any member, officer,
- 23 Executive Director, employee or representative of the Commission for the
- 24 amount of any settlement or judgment obtained against that person arising out
- 25 of any actual or alleged act, error or omission that occurred within the scope
- 26 of Commission employment, duties or responsibilities, or that such person had
- 27 a reasonable basis for believing occurred within the scope of Commission

1 employment, duties or responsibilities, provided that the actual or alleged act,  
2 error or omission did not result from the intentional or willful or wanton  
3 misconduct of that person.

#### 4 ARTICLE XI

#### 5 RULEMAKING

- 6 A. The Commission shall exercise its rulemaking powers pursuant to the criteria set  
7 forth in this Article and the Rules adopted thereunder. Rules and amendments shall  
8 become binding as of the date specified in each rule or amendment.
- 9 B. If a majority of the legislatures of the Compact States rejects a rule, by enactment of  
10 a statute or resolution in the same manner used to adopt the Compact, then such rule  
11 shall have no further force and effect in any Compact State.
- 12 C. Rules or amendments to the rules shall be adopted at a regular or special meeting of  
13 the Commission.
- 14 D. Prior to promulgation and adoption of a final rule or Rules by the Commission, and  
15 at least sixty (60) days in advance of the meeting at which the rule will be  
16 considered and voted upon, the Commission shall file a Notice of Proposed  
17 Rulemaking:
- 18 1. On the website of the Commission; and
  - 19 2. On the website of each Compact States' Psychology Regulatory Authority or  
20 the publication in which each state would otherwise publish proposed rules.
- 21 E. The Notice of Proposed Rulemaking shall include:
- 22 1. The proposed time, date, and location of the meeting in which the rule will be  
23 considered and voted upon;
  - 24 2. The text of the proposed rule or amendment and the reason for the proposed  
25 rule;
  - 26 3. A request for comments on the proposed rule from any interested person; and  
27 4. The manner in which interested persons may submit notice to the Commission

1 of their intention to attend the public hearing and any written comments.

2 F. Prior to adoption of a proposed rule, the Commission shall allow persons to submit  
3 written data, facts, opinions and arguments, which shall be made available to the  
4 public.

5 G. The Commission shall grant an opportunity for a public hearing before it adopts a  
6 rule or amendment if a hearing is requested by:

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

9 2. A governmental subdivision or agency; or

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

12 H. If a hearing is held on the proposed rule or amendment, the Commission shall  
13 publish the place, time, and date of the scheduled public hearing.

14 1. All persons wishing to be heard at the hearing shall notify the Executive  
15 Director of the Commission or other designated member in writing of their  
16 desire to appear and testify at the hearing not less than five (5) business days  
17 before the scheduled date of the hearing.

18 2. Hearings shall be conducted in a manner providing each person who wishes to  
19 comment a fair and reasonable opportunity to comment orally or in writing.

20 3. No transcript of the hearing is required, unless a written request for a  
21 transcript is made, in which case the person requesting the transcript shall  
22 bear the cost of producing the transcript. A recording may be made in lieu of a  
23 transcript under the same terms and conditions as a transcript. This subsection  
24 shall not preclude the Commission from making a transcript or recording of  
25 the hearing if it so chooses.

26 4. Nothing in this section shall be construed as requiring a separate hearing on  
27 each rule. Rules may be grouped for the convenience of the Commission at

1           hearings required by this section.

2    I.    Following the scheduled hearing date, or by the close of business on the scheduled  
3           hearing date if the hearing was not held, the Commission shall consider all written  
4           and oral comments received.

5    J.    The Commission shall, by majority vote of all members, take final action on the  
6           proposed rule and shall determine the effective date of the rule, if any, based on the  
7           rulemaking record and the full text of the rule.

8    K.    If no written notice of intent to attend the public hearing by interested parties is  
9           received, the Commission may proceed with promulgation of the proposed rule  
10          without a public hearing.

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

18          1.    Meet an imminent threat to public health, safety, or welfare;

19          2.    Prevent a loss of Commission or Compact State funds;

20          3.    Meet a deadline for the promulgation of an administrative rule that is  
21                established by federal law or rule; or

22          4.    Protect public health and safety.

23   M.    The Commission or an authorized committee of the Commission may direct  
24          revisions to a previously adopted rule or amendment for purposes of correcting  
25          typographical errors, errors in format, errors in consistency, or grammatical errors.  
26          Public notice of any revisions shall be posted on the website of the Commission.  
27          The revision shall be subject to challenge by any person for a period of thirty (30)

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

## 7 ARTICLE XII

### 8 OVERSIGHT, DISPUTE RESOLUTION AND ENFORCEMENT

#### 9 A. Oversight

- 10 1. The Executive, Legislative and Judicial branches of state government in each  
11 Compact State shall enforce this Compact and take all actions necessary and  
12 appropriate to effectuate the Compact's purposes and intent. The provisions of  
13 this Compact and the rules promulgated hereunder shall have standing as  
14 statutory law.
- 15 2. All courts shall take judicial notice of the Compact and the rules in any  
16 judicial or administrative proceeding in a Compact State pertaining to the  
17 subject matter of this Compact which may affect the powers, responsibilities  
18 or actions of the Commission.
- 19 3. The Commission shall be entitled to receive service of process in any such  
20 proceeding, and shall have standing to intervene in such a proceeding for all  
21 purposes. Failure to provide service of process to the Commission shall render  
22 a judgment or order void as to the Commission, this Compact or promulgated  
23 rules.

#### 24 B. Default, Technical Assistance, and Termination

- 25 1. If the Commission determines that a Compact State has defaulted in the  
26 performance of its obligations or responsibilities under this Compact or the  
27 promulgated rules, the Commission shall:

- 1           a.    Provide written notice to the defaulting state and other Compact States  
2                   of the nature of the default, the proposed means of remedying the  
3                   default and/or any other action to be taken by the Commission; and
- 4           b.    Provide remedial training and specific technical assistance regarding the  
5                   default.
- 6           2.    If a state in default fails to remedy the default, the defaulting state may be  
7                   terminated from the Compact upon an affirmative vote of a majority of the  
8                   Compact States, and all rights, privileges and benefits conferred by this  
9                   Compact shall be terminated on the effective date of termination. A remedy of  
10                  the default does not relieve the offending state of obligations or liabilities  
11                  incurred during the period of default.
- 12          3.    Termination of membership in the Compact shall be imposed only after all  
13                  other means of securing compliance have been exhausted. Notice of intent to  
14                  suspend or terminate shall be submitted by the Commission to the Governor,  
15                  the majority and minority leaders of the defaulting state's legislature, and each  
16                  of the Compact States.
- 17          4.    A Compact State which has been terminated is responsible for all  
18                  assessments, obligations and liabilities incurred through the effective date of  
19                  termination, including obligations which extend beyond the effective date of  
20                  termination.
- 21          5.    The Commission shall not bear any costs incurred by the state which is found  
22                  to be in default or which has been terminated from the Compact, unless  
23                  agreed upon in writing between the Commission and the defaulting state.
- 24          6.    The defaulting state may appeal the action of the Commission by petitioning  
25                  the United States District Court for the state of Georgia or the federal district  
26                  where the Compact has its principal offices. The prevailing member shall be  
27                  awarded all costs of such litigation, including reasonable attorney's fees.

1 C. Dispute Resolution

2 1. Upon request by a Compact State, the Commission shall attempt to resolve  
3 disputes related to the Compact which arise among Compact States and  
4 between Compact and Non-Compact States.

5 2. The Commission shall promulgate a rule providing for both mediation and  
6 binding dispute resolution for disputes that arise before the commission.

7 D. Enforcement

8 1. The Commission, in the reasonable exercise of its discretion, shall enforce the  
9 provisions and Rules of this Compact.

10 2. By majority vote, the Commission may initiate legal action in the United  
11 States District Court for the State of Georgia or the federal district where the  
12 Compact has its principal offices against a Compact State in default to enforce  
13 compliance with the provisions of the Compact and its promulgated Rules and  
14 Bylaws. The relief sought may include both injunctive relief and damages. In  
15 the event judicial enforcement is necessary, the prevailing member shall be  
16 awarded all costs of such litigation, including reasonable attorney's fees.

17 3. The remedies herein shall not be the exclusive remedies of the Commission.  
18 The Commission may pursue any other remedies available under federal or  
19 state law.

20

ARTICLE XIII

21 DATE OF IMPLEMENTATION OF THE PSYCHOLOGY INTERJURISDICTIONAL  
22 COMPACT COMMISSION AND ASSOCIATED RULES, WITHDRAWAL, AND  
23 AMENDMENTS

24 A. The Compact shall come into effect on the date on which the Compact is enacted  
25 into law in the seventh Compact State. The provisions which become effective at  
26 that time shall be limited to the powers granted to the Commission relating to  
27 assembly and the promulgation of rules. Thereafter, the Commission shall meet and

1 exercise rulemaking powers necessary to the implementation and administration of  
2 the Compact.

3 B. Any state which joins the Compact subsequent to the Commission's initial adoption  
4 of the rules shall be subject to the rules as they exist on the date on which the  
5 Compact becomes law in that state. Any rule which has been previously adopted by  
6 the Commission shall have the full force and effect of law on the day the Compact  
7 becomes law in that state.

8 C. Any Compact State may withdraw from this Compact by enacting a statute  
9 repealing the same.

10 1. A Compact State's withdrawal shall not take effect until six (6) months after  
11 enactment of the repealing statute.

12 2. Withdrawal shall not affect the continuing requirement of the withdrawing  
13 State's Psychology Regulatory Authority to comply with the investigative and  
14 adverse action reporting requirements of this act prior to the effective date of  
15 withdrawal.

16 D. Nothing contained in this Compact shall be construed to invalidate or prevent any  
17 psychology licensure agreement or other cooperative arrangement between a  
18 Compact State and a Non-Compact State which does not conflict with the  
19 provisions of this Compact.

20 E. This Compact may be amended by the Compact States. No amendment to this  
21 Compact shall become effective and binding upon any Compact State until it is  
22 enacted into the law of all Compact States.

#### 23 ARTICLE XIV

#### 24 CONSTRUCTION AND SEVERABILITY

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



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ARTICLE XV

APPLICABILITY OF KENTUCKY STATE GOVERNMENT

In order to clarify the effect of certain provisions of this Compact and to ensure that the rights and responsibilities of the various branches of government are maintained, the following shall be in effect in this state:

A. By entering into this Compact, this state authorizes the licensing board as defined in Article II. Z. of this Compact and as created by KRS Chapter 319 to implement the provisions of this Compact.

B. Notwithstanding any provision of this Compact to the contrary:

1. When a rule is adopted pursuant to Article XI of this Compact, the licensing board of this state as defined by Article II. Z. of this Compact shall have sixty (60) days to review the rule for the purpose of filing the rule as an emergency administrative regulation pursuant to KRS 13A.190 and for filing the rule as an accompanying ordinary administrative regulation, following the requirements of KRS Chapter 13A. Failure by the licensing board of this state as defined by Article II. Z. of this Compact to promulgate a rule adopted by the Psychology Interjurisdictional Compact Commission as an administrative regulation pursuant to KRS Chapter 13A shall result in withdrawal as set forth in Article XIII of this Compact. Nothing in these provisions shall negate the applicability of a Commission rule or Article XI of this Compact to this state.
2. If the proposed administrative regulation is found deficient and the deficiency is not resolved pursuant to KRS 13A.330 or 13A.335 or Section 6 of this Act, the provisions of Article XII of this Compact shall apply. If the deficiency is resolved in a manner determined by the Commission to be inconsistent with this Compact or its rules, or if the procedures under Article XII of this Compact fail to resolve an issue, the withdrawal provisions of Article XIII of this Compact shall apply.

1           3. If a court of competent jurisdiction determines that the Psychology  
2           Interjurisdictional Compact Commission created by Article X of this Compact  
3           exercises its rulemaking authority in a manner that is beyond the scope of the  
4           purposes of this Compact, or the powers granted under this Compact, then  
5           such an action by the commission shall be invalid and have no force or effect.

6       C. Article X. F. of this Compact pertaining to the financing of the commission shall  
7       not be interpreted to obligate the general fund of this state. Any funds used to  
8       finance this Compact shall be from money collected pursuant to KRS 319.131.

9       D. This Compact shall apply only to those psychologists who practice or work under a  
10       compact privilege.

11       ➔Section 13. KRS 319A.310 is amended to read as follows:

12       SECTION 1. PURPOSE

13       The purpose of this Compact is to facilitate interstate practice of occupational therapy  
14       with the goal of improving public access to occupational therapy services. The practice of  
15       occupational therapy occurs in the state where the patient or client is located at the time  
16       of the patient or client encounter. The Compact preserves the regulatory authority of  
17       states to protect public health and safety through the current system of state licensure.

18       This Compact is designed to achieve the following objectives:

19       A. Increase public access to occupational therapy services by providing for the mutual  
20       recognition of other member state licenses;

21       B. Enhance the states' ability to protect the public's health and safety;

22       C. Encourage the cooperation of member states in regulating multistate occupational  
23       therapy practice;

24       D. Support spouses of relocating military members;

25       E. Enhance the exchange of licensure, investigative, and disciplinary information  
26       between member states;

27       F. Allow a remote state to hold a provider of services with a Compact privilege in that

1 state accountable to that state's practice standards; and

2 G. Facilitate the use of telehealth technology in order to increase access to  
3 occupational therapy services.

#### 4 SECTION 2. DEFINITIONS

5 As used in this Compact, and except as otherwise provided, the following definitions  
6 shall apply:

- 7 A. "Active duty military" means full-time duty status in the active uniformed service  
8 of the United States, including members of the National Guard and Reserve on  
9 active duty orders pursuant to 10 U.S.C. Chapter 1209 and 10 U.S.C. Chapter 1211;
- 10 B. "Adverse action" means any administrative, civil, equitable, or criminal action  
11 permitted by a state's laws which is imposed by a licensing board or other authority  
12 against an occupational therapist or occupational therapy assistant, including  
13 actions against an individual's license or Compact privilege such as censure,  
14 revocation, suspension, probation, monitoring of the licensee, or restriction on the  
15 licensee's practice;
- 16 C. "Alternative program" means a nondisciplinary monitoring process approved by an  
17 occupational therapy licensing board;
- 18 D. "Compact privilege" means the authorization, which is equivalent to a license,  
19 granted by a remote state to allow a licensee from another member state to practice  
20 as an occupational therapist or practice as an occupational therapy assistant in the  
21 remote state under its laws and rules. The practice of occupational therapy occurs in  
22 the member state where the patient or client is located at the time of the patient or  
23 client encounter;
- 24 E. "Continuing competence or continuing education" means a requirement, as a  
25 condition of license renewal, to provide evidence of participation in, completion of,  
26 or any combination of these actions regarding educational and professional  
27 activities relevant to practice or area of work;

- 1 F. "Current significant investigative information" means investigative information that  
2 a licensing board, after an inquiry or investigation that includes notification and an  
3 opportunity for the occupational therapist or occupational therapy assistant to  
4 respond, if required by state law, has reason to believe is not groundless and, if  
5 proved true, would indicate more than a minor infraction;
- 6 G. "Data system" means a repository of information about licensees, including but not  
7 limited to license status, investigative information, Compact privileges, and adverse  
8 actions;
- 9 H. "Encumbered license" means a license in which an adverse action restricts the  
10 practice of occupational therapy by the licensee or said adverse action has been  
11 reported to the National Practitioners Data Bank (NPDB);
- 12 I. "Executive committee" means a group of directors elected or appointed to act on  
13 behalf of, and within the powers granted to them by, the commission;
- 14 J. "Home state" means the member state that is the licensee's primary state of  
15 residence;
- 16 K. "Impaired practitioner" means an individual whose professional practice is  
17 adversely affected by substance abuse, addiction, or other health-related conditions;
- 18 L. "Investigative information" means information, records, documents, or any  
19 combination of these items received or generated by an occupational therapy  
20 licensing board pursuant to an investigation;
- 21 M. "Jurisprudence requirement" means the assessment of an individual's knowledge of  
22 the laws and rules governing the practice of occupational therapy in a state;
- 23 N. "Licensee" means an individual who currently holds an authorization from the state  
24 to practice as an occupational therapist or as an occupational therapy assistant;
- 25 O. "Member state" means a state that has enacted the Compact;
- 26 P. "Occupational therapist" means an individual who is licensed by a state to practice  
27 occupational therapy;

- 1 Q. "Occupational therapy assistant" means an individual who is licensed by a state to  
2 assist in the practice of occupational therapy;
- 3 R. "Occupational therapy," "occupational therapy practice," and the "practice of  
4 occupational therapy" mean the care and services provided by an occupational  
5 therapist or an occupational therapy assistant as set forth in the member state's  
6 statutes and regulations;
- 7 S. "Occupational Therapy Compact Commission" or "commission" means the national  
8 administrative body whose membership consists of all states that have enacted the  
9 Compact;
- 10 T. "Occupational therapy licensing board" or "licensing board" means the agency of a  
11 state that is authorized to license and regulate occupational therapists and  
12 occupational therapy assistants;
- 13 U. "Primary state of residence" means the state (also known as the home state) in  
14 which an occupational therapist or occupational therapy assistant who is not active  
15 duty military declares a primary residence for legal purposes as verified by a  
16 driver's license, federal income tax return, lease, deed, mortgage, voter registration,  
17 or other verifying documentation as further defined by commission rules;
- 18 V. "Remote state" means a member state other than the home state, where a licensee is  
19 exercising or seeking to exercise the Compact privilege;
- 20 W. "Rule" means a regulation promulgated by the commission that has the force of  
21 law;
- 22 X. "State" means any state, commonwealth, district, or territory of the United States of  
23 America that regulates the practice of occupational therapy;
- 24 Y. "Single-state license" means an occupational therapist or occupational therapy  
25 assistant license issued by a member state that authorizes practice only within the  
26 issuing state and does not include a Compact privilege in any other member state;  
27 and

1 Z. "Telehealth" means the application of telecommunication technology to deliver  
2 occupational therapy services for assessment, intervention, consultation, or any  
3 combination of these actions.

#### 4 SECTION 3. STATE PARTICIPATION IN THE COMPACT

5 A. To participate in the Compact, a member state shall:

- 6 1. License occupational therapists and occupational therapy assistants;
- 7 2. Participate fully in the commission's data system, including but not limited to  
8 using the commission's unique identifier as defined in rules of the  
9 commission;
- 10 3. Have a mechanism in place for receiving and investigating complaints about  
11 licensees;
- 12 4. Notify the commission, in compliance with the terms of the Compact and  
13 rules, of any adverse action or the availability of investigative information  
14 regarding a licensee;
- 15 5. Implement or utilize procedures for considering the criminal history records  
16 of applicants for an initial Compact privilege. These procedures shall include  
17 the submission of fingerprints or other biometric-based information by  
18 applicants for the purpose of obtaining an applicant's criminal history record  
19 information from the Federal Bureau of Investigation and the agency  
20 responsible for retaining that state's criminal records.
  - 21 a. A member state shall, within a time frame established by the  
22 commission, require a criminal background check for a licensee seeking  
23 or applying for a Compact privilege whose primary state of residence is  
24 that member state, by receiving the results of the Federal Bureau of  
25 Investigation criminal record search, and shall use the results in making  
26 licensure decisions.
  - 27 b. Communication between a member state, the commission, and among

1 member states regarding the verification of eligibility for licensure  
2 through the Compact shall not include any information received from  
3 the Federal Bureau of Investigation relating to a federal criminal records  
4 check performed by a member state under Public Law No. 92-544;

- 5 6. Comply with the rules of the commission;
- 6 7. Utilize only a recognized national examination as a requirement for licensure  
7 pursuant to the rules of the commission; and
- 8 8. Have continuing competence or continuing education requirements as a  
9 condition for license renewal.

10 B. A member state shall grant the Compact privilege to a licensee holding a valid  
11 unencumbered license in another member state in accordance with the terms of the  
12 Compact and rules.

13 C. Member states may charge a fee for granting a Compact privilege.

14 D. A member state shall provide for the state's delegate to attend all Occupational  
15 Therapy Compact Commission meetings.

16 E. Individuals not residing in a member state shall continue to be able to apply for a  
17 member state's single-state license as provided under the laws of each member  
18 state. However, the single-state license granted to these individuals shall not be  
19 recognized as granting the Compact privilege in any other member state.

20 F. Nothing in this Compact shall affect the requirements established by a member state  
21 for the issuance of a single-state license.

#### 22 SECTION 4. COMPACT PRIVILEGE

23 A. To exercise the Compact privilege under the terms and provisions of the Compact,  
24 the licensee shall:

- 25 1. Hold a license in the home state;
- 26 2. Have a valid United States Social Security number or National Practitioner  
27 Identification number;

- 1       3.    Have no encumbrance on any state license;
- 2       4.    Be eligible for a Compact privilege in any member state in accordance with
- 3            Section 4D., F., G., and H.;
- 4       5.    Have paid all fines and completed all requirements resulting from any adverse
- 5            action against any license or Compact privilege, and two (2) years have
- 6            elapsed from the date of such completion;
- 7       6.    Notify the commission that the licensee is seeking the Compact privilege
- 8            within a remote state or states;
- 9       7.    Pay any applicable fees, including any state fee, for the Compact privilege;
- 10      8.    Complete a criminal background check in accordance with Section 3A.5. The
- 11            licensee shall be responsible for the payment of any fee associated with the
- 12            completion of a criminal background check;
- 13      9.    Meet any jurisprudence requirements established by the remote state or states
- 14            in which the licensee is seeking a Compact privilege; and
- 15      10.   Report to the commission adverse action taken by any nonmember state
- 16            within thirty (30) days from the date the adverse action is taken.
- 17    B.    The Compact privilege is valid until the expiration date of the home state license.
- 18            The licensee shall comply with the requirements of Section 4A. to maintain the
- 19            Compact privilege in the remote state.
- 20    C.    A licensee providing occupational therapy in a remote state under the Compact
- 21            privilege shall function within the laws and regulations of the remote state.
- 22    D.    Occupational therapy assistants practicing in a remote state shall be supervised by
- 23            an occupational therapist licensed or holding a Compact privilege in that remote
- 24            state.
- 25    E.    A licensee providing occupational therapy in a remote state is subject to that state's
- 26            regulatory authority. A remote state may, in accordance with due process and that
- 27            state's laws, remove a licensee's Compact privilege in the remote state for a specific



1 period of time, impose fines, or take a combination of these or any other necessary  
2 actions to protect the health and safety of its citizens. The licensee may be ineligible  
3 for a Compact privilege in any state until the specific time for removal has passed  
4 and all fines are paid.

5 F. If a home state license is encumbered, the licensee shall lose the Compact privilege  
6 in any remote state until the following occur:

- 7 1. The home state license is no longer encumbered; and
- 8 2. Two (2) years have elapsed from the date on which the home state license is  
9 no longer encumbered in accordance with Section 4F.1.

10 G. Once an encumbered license in the home state is restored to good standing, the  
11 licensee shall meet the requirements of Section 4A. to obtain a Compact privilege in  
12 any remote state.

13 H. If a licensee's Compact privilege in any remote state is removed, the individual may  
14 lose the Compact privilege in any other remote state until the following occur:

- 15 1. The specific period of time for which the Compact privilege was removed has  
16 ended;
- 17 2. All fines have been paid and all conditions have been met;
- 18 3. Two (2) years have elapsed from the date of completing requirements for  
19 4H.1. and 2.; and
- 20 4. The Compact privileges are reinstated by the commission, and the Compact  
21 data system is updated to reflect reinstatement.

22 I. If a licensee's Compact privilege in any remote state is removed due to an erroneous  
23 charge, privileges shall be restored through the Compact data system.

24 J. Once the requirements of Section 4H. have been met, the license shall meet the  
25 requirements in Section 4A. to obtain a Compact privilege in a remote state.

26 SECTION 5. OBTAINING A NEW HOME STATE LICENSE BY VIRTUE OF  
27 COMPACT PRIVILEGE

- 1 A. An occupational therapist or occupational therapy assistant may hold a home state  
2 license, which allows for Compact privileges in member states, in only one (1)  
3 member state at a time.
- 4 B. If an occupational therapist or occupational therapy assistant changes primary state  
5 of residence by moving between two (2) member states:
- 6 1. The occupational therapist or occupational therapy assistant shall file an  
7 application for obtaining a new home state license by virtue of a Compact  
8 privilege, pay all applicable fees, and notify the current and new home state in  
9 accordance with applicable rules adopted by the commission;
- 10 2. Upon receipt of an application for obtaining a new home state license by  
11 virtue of Compact privilege, the new home state shall verify that the  
12 occupational therapist or occupational therapy assistant meets the pertinent  
13 criteria outlined in Section 4 via the data system, without need for primary  
14 source verification except for:
- 15 a. An FBI fingerprint-based criminal background check if not previously  
16 performed or updated pursuant to applicable rules adopted by the  
17 commission in accordance with Public Law No. 92-544;
- 18 b. Other criminal background check as required by the new home state;  
19 and
- 20 c. Submission of any requisite jurisprudence requirements of the new  
21 home state;
- 22 3. The former home state shall convert the former home state license into a  
23 Compact privilege once the new home state has activated the new home state  
24 license in accordance with applicable rules adopted by the commission;
- 25 4. Notwithstanding any other provision of this Compact, if the occupational  
26 therapist or occupational therapy assistant cannot meet the criteria in Section  
27 4, the new home state shall apply its requirements for issuing a new single-

1 state license; and

2 5. The occupational therapist or the occupational therapy assistant shall pay all  
3 applicable fees to the new home state in order to be issued a new home state  
4 license.

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

9 D. Nothing in this Compact shall interfere with a licensee's ability to hold a single-  
10 state license in multiple states; however, for the purposes of this Compact, a  
11 licensee shall have only one (1) home state license.

12 E. Nothing in this Compact shall affect the requirements established by a member state  
13 for the issuance of a single-state license.

#### 14 SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

15 Active duty military personnel, or their spouses, shall designate a home state where the  
16 individual has a current license in good standing. The individual may retain the home  
17 state designation during the period the service member is on active duty. Subsequent to  
18 designating a home state, the individual shall only change their home state through  
19 application for licensure in the new state or through the process described in Section 5.

#### 20 SECTION 7. ADVERSE ACTIONS

21 A. A home state shall have exclusive power to impose adverse action against an  
22 occupational therapist's or occupational therapy assistant's license issued by the  
23 home state.

24 B. In addition to the other powers conferred by state law, a remote state shall have the  
25 authority, in accordance with existing state due process law, to:

26 1. Take adverse action against an occupational therapist's or occupational  
27 therapy assistant's Compact privilege within that member state; and

- 1           2. Issue subpoenas for both hearings and investigations that require the  
2           attendance and testimony of witnesses as well as the production of evidence.  
3           Subpoenas issued by a licensing board in a member state for the attendance  
4           and testimony of witnesses or the production of evidence from another  
5           member state shall be enforced in the latter state by any court of competent  
6           jurisdiction, according to the practice and procedure of that court applicable to  
7           subpoenas issued in proceedings pending before it. The issuing authority shall  
8           pay any witness fees, travel expenses, mileage, and other fees required by the  
9           service statutes of the state in which the witnesses or evidence are located.
- 10       C. For purposes of taking adverse action, the home state shall give the same priority  
11       and effect to reported conduct received from a member state as it would if the  
12       conduct had occurred within the home state. In so doing, the home state shall apply  
13       its own state laws to determine appropriate action.
- 14       D. The home state shall complete any pending investigations of an occupational  
15       therapist or occupational therapy assistant who changes primary state of residence  
16       during the course of the investigations. The home state, where the investigations  
17       were initiated, shall also have the authority to take appropriate action or actions and  
18       shall promptly report the conclusions of the investigations to the Occupational  
19       Therapy Compact Commission data system. The Occupational Therapy Compact  
20       Commission data system administrator shall promptly notify the new home state of  
21       any adverse actions.
- 22       E. A member state, if otherwise permitted by state law, may recover from the affected  
23       occupational therapist or occupational therapy assistant the costs of investigations  
24       and disposition of cases resulting from any adverse action taken against that  
25       occupational therapist or occupational therapy assistant.
- 26       F. A member state may take adverse action based on the factual findings of the remote  
27       state, provided that the member state follows its own procedures for taking the

1 adverse action.

2 G. Joint investigations

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

7 2. Member states shall share any investigative, litigation, or compliance  
8 materials in furtherance of any joint or individual investigation initiated under  
9 the Compact.

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

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

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

23 SECTION 8. ESTABLISHMENT OF THE OCCUPATIONAL THERAPY COMPACT  
24 COMMISSION

25 A. The Compact member states hereby create and establish a joint public agency  
26 known as the Occupational Therapy Compact Commission.

27 1. The commission is an instrumentality of the Compact states.

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

6           3.    Nothing in this Compact shall be construed to be a waiver of sovereign  
7                    immunity.

8    B.    Membership, voting, and meetings

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

11          2.    The delegate shall be either:

12               a.    A current member of the licensing board, who is an occupational  
13                    therapist, occupational therapy assistant, or public member; or

14               b.    An administrator of the licensing board.

15          3.    Any delegate may be removed or suspended from office as provided by the  
16                   law of the state from which the delegate is appointed.

17          4.    The member state board shall fill any vacancy occurring in the commission  
18                   within ninety (90) days.

19          5.    Each delegate shall be entitled to one (1) vote with regard to the promulgation  
20                   of rules and creation of bylaws and shall otherwise have an opportunity to  
21                   participate in the business and affairs of the commission. A delegate shall vote  
22                   in person or by such other means as provided in the bylaws. The bylaws may  
23                   provide for delegates' participation in meetings by telephone or other means  
24                   of communication.

25          6.    The commission shall meet at least once during each calendar year.  
26                   Additional meetings shall be held as set forth in the bylaws.

27          7.    The commission shall establish by rule a term of office for delegates.

- 1 C. The commission shall have the following powers and duties:
- 2 1. Establish a code of ethics for the commission;
  - 3 2. Establish the fiscal year of the commission;
  - 4 3. Establish bylaws;
  - 5 4. Maintain its financial records in accordance with the bylaws;
  - 6 5. Meet and take such actions as are consistent with the provisions of this  
7 Compact and the bylaws;
  - 8 6. Promulgate uniform rules to facilitate and coordinate implementation and  
9 administration of this Compact. The rules shall have the force and effect of  
10 law and shall be binding in all member states;
  - 11 7. Bring and prosecute legal proceedings or actions in the name of the  
12 commission, provided that the standing of any state occupational therapy  
13 licensing board to sue or be sued under applicable law shall not be affected;
  - 14 8. Purchase and maintain insurance and bonds;
  - 15 9. Borrow, accept, or contract for services of personnel, including, but not  
16 limited to, employees of a member state;
  - 17 10. Hire employees, elect or appoint officers, fix compensation, define duties,  
18 grant such individuals appropriate authority to carry out the purposes of the  
19 Compact, and establish the commission's personnel policies and programs  
20 relating to conflicts of interest, qualifications of personnel, and other related  
21 personnel matters;
  - 22 11. Accept any and all appropriate donations and grants of money, equipment,  
23 supplies, materials, and services, and receive, utilize, and dispose of the same;  
24 provided that at all times the commission shall avoid any appearance of  
25 impropriety or conflict of interest;
  - 26 12. Lease, purchase, accept appropriate gifts or donations of, or otherwise own,  
27 hold, improve, or use any property, real, personal, or mixed; provided that at

- 1 all times the commission shall avoid any appearance of impropriety;
- 2 13. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise
- 3 dispose of any property, real, personal, or mixed;
- 4 14. Establish a budget and make expenditures;
- 5 15. Borrow money;
- 6 16. Appoint committees, including standing committees composed of members,
- 7 state regulators, state legislators or their representatives, consumer
- 8 representatives, and such other interested persons as may be designated in this
- 9 Compact and the bylaws;
- 10 17. Provide and receive information from, and cooperate with, law enforcement
- 11 agencies;
- 12 18. Establish and elect an executive committee; and
- 13 19. Perform such other functions as may be necessary or appropriate to achieve
- 14 the purposes of this Compact consistent with the state regulation of
- 15 occupational therapy licensure and practice.
- 16 D. The executive committee
- 17 The executive committee shall have the power to act on behalf of the commission
- 18 according to the terms of this Compact.
- 19 1. The executive committee shall be composed of nine (9) members:
- 20 a. Seven (7) voting members who are elected by the commission from the
- 21 current membership of the commission;
- 22 b. One (1) ex officio, nonvoting member from a recognized national
- 23 occupational therapy professional association; and
- 24 c. One (1) ex officio, nonvoting member from a recognized national
- 25 occupational therapy certification organization.
- 26 2. The ex officio members shall be selected by their respective organizations.
- 27 3. The commission may remove any member of the executive committee as



1 provided in bylaws.

2 4. The executive committee shall meet at least annually.

3 5. The executive committee shall have the following duties and responsibilities:

4 a. Recommend to the entire commission changes to the rules or bylaws,  
5 changes to this Compact legislation, fees paid by Compact member  
6 states such as annual dues, and any commission Compact fee charged to  
7 licensees for the Compact privilege;

8 b. Ensure Compact administration services are appropriately provided,  
9 contractual or otherwise;

10 c. Prepare and recommend the budget;

11 d. Maintain financial records on behalf of the commission;

12 e. Monitor Compact compliance of member states and provide compliance  
13 reports to the commission;

14 f. Establish additional committees as necessary; and

15 g. Perform other duties as provided in rules or bylaws.

16 E. Meetings of the commission

17 1. All meetings shall be open to the public, and public notice of meetings shall  
18 be given in the same manner as required under the rulemaking provisions in  
19 Section 10.

20 2. The commission or the executive committee or other committees of the  
21 commission may convene in a closed, nonpublic meeting if the commission or  
22 executive committee or other committees of the commission are required to  
23 discuss:

24 a. Noncompliance of a member state with its obligations under the  
25 Compact;

26 b. The employment, compensation, discipline, or other matters, practices,  
27 or procedures related to specific employees or other matters related to

- 1                   the commission's internal personnel practices and procedures;
- 2           c.    Current, threatened, or reasonably anticipated litigation;
- 3           d.    Negotiation of contracts for the purchase, lease, or sale of goods,  
4                   services, or real estate;
- 5           e.    Accusing any person of a crime or formally censuring any person;
- 6           f.    Disclosure of trade secrets or commercial or financial information that is  
7                   privileged or confidential;
- 8           g.    Disclosure of information of a personal nature where disclosure would  
9                   constitute a clearly unwarranted invasion of personal privacy;
- 10          h.    Disclosure of investigative records compiled for law enforcement  
11                   purposes;
- 12          i.    Disclosure of information related to any investigative reports prepared  
13                   by or on behalf of or for use of the commission or other committee  
14                   charged with responsibility of investigation or determination of  
15                   compliance issues pursuant to the Compact; or
- 16          j.    Matters specifically exempted from disclosure by federal or member  
17                   state statute.
- 18    3.    If a meeting, or portion of a meeting, is closed pursuant to this provision, the  
19           commission's legal counsel or designee shall certify that the meeting may be  
20           closed and shall reference each relevant exempting provision.
- 21    4.    The commission shall keep minutes that fully and clearly describe all matters  
22           discussed in a meeting and shall provide a full and accurate summary of  
23           actions taken, and the reasons for the actions, including a description of the  
24           views expressed. All documents considered in connection with an action shall  
25           be identified in such minutes. All minutes and documents of a closed meeting  
26           shall remain under seal, subject to release by a majority vote of the  
27           commission or order of a court of competent jurisdiction.

1 F. Financing of the commission

2 1. The commission shall pay, or provide for the payment of, the reasonable  
3 expenses of its establishment, organization, and ongoing activities.

4 2. The commission may accept any and all appropriate revenue sources,  
5 donations, and grants of money, equipment, supplies, materials, and services.

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

14 4. The commission shall not incur obligations of any kind prior to securing the  
15 funds adequate to meet the same; nor shall the commission pledge the credit  
16 of any of the member states, except by and with the authority of the member  
17 state.

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

25 G. Qualified immunity, defense, and indemnification

26 1. The members, officers, executive director, employees, and representatives of  
27 the commission shall be immune from suit and liability, either personally or in

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

9           2. The commission shall defend any member, officer, executive director,  
10          employee, or representative of the commission in any civil action seeking to  
11          impose liability arising out of any actual or alleged act, error, or omission that  
12          occurred within the scope of commission employment, duties, or  
13          responsibilities, or that the person against whom the claim is made had a  
14          reasonable basis for believing occurred within the scope of commission  
15          employment, duties, or responsibilities; provided that nothing herein shall be  
16          construed to prohibit that person from retaining that person's own counsel;  
17          and provided further, that the actual or alleged act, error, or omission did not  
18          result from that person's intentional, willful, or wanton misconduct.

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

## 1 SECTION 9. DATA SYSTEM

- 2 A. The commission shall provide for the development, maintenance, and utilization of  
3 a coordinated database and reporting system containing licensure, adverse action,  
4 and investigative information on all licensed individuals in member states.
- 5 B. A member state shall submit a uniform data set to the data system on all individuals  
6 to whom this Compact is applicable (utilizing a unique identifier) as required by the  
7 rules of the commission, including:
- 8 1. Identifying information;
  - 9 2. Licensure data;
  - 10 3. Adverse actions against a license or Compact privilege;
  - 11 4. Nonconfidential information related to alternative program participation;
  - 12 5. Any denial of application for licensure, and the reason or reasons for such  
13 denial;
  - 14 6. Other information that may facilitate the administration of this Compact, as  
15 determined by the rules of the commission; and
  - 16 7. Current significant investigative information.
- 17 C. Current significant investigative information and other investigative information  
18 pertaining to a licensee in any member state shall only be available to other member  
19 states.
- 20 D. The commission shall promptly notify all member states of any adverse action  
21 taken against a licensee or an individual applying for a license. Adverse action  
22 information pertaining to a licensee in any member state shall be available to any  
23 other member state.
- 24 E. Member states contributing information to the data system may designate  
25 information that may not be shared with the public without the express permission  
26 of the contributing state.
- 27 F. Any information submitted to the data system that is subsequently required to be

1 expunged by the laws of the member state contributing the information shall be  
2 removed from the data system.

3 SECTION 10. RULEMAKING

4 A. The commission shall exercise its rulemaking powers pursuant to the criteria set  
5 forth in this section and the rules adopted thereunder. Rules and amendments shall  
6 become binding as of the date specified in each rule or amendment.

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

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

16 D. Rules or amendments to the rules shall be adopted at a regular or special meeting of  
17 the commission.

18 E. Prior to promulgation and adoption of a final rule or rules by the commission, and  
19 at least thirty (30) days in advance of the meeting at which the rule shall be  
20 considered and voted upon, the commission shall file a notice of proposed  
21 rulemaking:

22 1. On the website~~[Web site]~~ of the commission or other publicly accessible  
23 platform; and

24 2. On the website~~[Web site]~~ of each member state occupational therapy licensing  
25 board or other publicly accessible platform or the publication in which each  
26 state would otherwise publish proposed rules.

27 F. The notice of proposed rulemaking shall include:

- 1       1.    The proposed time, date, and location of the meeting in which the rule shall be  
2            considered and voted upon;
- 3       2.    The text of the proposed rule or amendment and the reason for the proposed  
4            rule;
- 5       3.    A request for comments on the proposed rule from any interested person; and
- 6       4.    The manner in which interested persons may submit notice to the commission  
7            of their intention to attend the public hearing and any written comments.
- 8    G.    Prior to adoption of a proposed rule, the commission shall allow persons to submit  
9            written data, facts, opinions, and arguments, which shall be made available to the  
10          public.
- 11   H.    The commission shall grant an opportunity for a public hearing before it adopts a  
12          rule or amendment if a hearing is requested by:
  - 13        1.    At least twenty-five (25) persons;
  - 14        2.    A state or federal governmental subdivision or agency; or
  - 15        3.    An association or organization having at least twenty-five (25) members.
- 16   I.    If a hearing is held on the proposed rule or amendment, the commission shall  
17          publish the place, time, and date of the scheduled public hearing. If the hearing is  
18          held via electronic means, the commission shall publish the mechanism for access  
19          to the electronic hearing.
  - 20        1.    All persons wishing to be heard at the hearing shall notify the executive  
21              director of the commission or other designated member in writing of their  
22              desire to appear and testify at the hearing not less than five (5) business days  
23              before the scheduled date of the hearing.
  - 24        2.    Hearings shall be conducted in a manner providing each person who wishes to  
25              comment a fair and reasonable opportunity to comment orally or in writing.
  - 26        3.    All hearings shall be recorded. A copy of the recording shall be made  
27              available on request.

- 1           4. Nothing in this section shall be construed as requiring a separate hearing on  
2           each rule. Rules may be grouped for the convenience of the commission at  
3           hearings required by this section.
- 4    J. Following the scheduled hearing date, or by the close of business on the scheduled  
5           hearing date if the hearing was not held, the commission shall consider all written  
6           and oral comments received.
- 7    K. If no written notice of intent to attend the public hearing by interested parties is  
8           received, the commission may proceed with promulgation of the proposed rule  
9           without a public hearing.
- 10   L. The commission shall, by majority vote of all members, take final action on the  
11          proposed rule and shall determine the effective date of the rule, if any, based on the  
12          rulemaking record and the full text of the rule.
- 13   M. Upon determination that an emergency exists, the commission may consider and  
14          adopt an emergency rule without prior notice, opportunity for comment, or hearing,  
15          provided that the usual rulemaking procedures provided in the Compact and in this  
16          section shall be retroactively applied to the rule as soon as reasonably possible, in  
17          no event later than ninety (90) days after the effective date of the rule. For the  
18          purposes of this provision, an emergency rule is a rule that requires immediate  
19          adoption in order to:
- 20          1. Meet an imminent threat to public health, safety, or welfare;  
21          2. Prevent a loss of commission or member state funds;  
22          3. Meet a deadline for the promulgation of an administrative rule that is  
23             established by federal law or rule; or  
24          4. Protect public health and safety.
- 25   N. The commission or an authorized committee of the commission may direct  
26          revisions to a previously adopted rule or amendment for purposes of correcting  
27          typographical errors, errors in format, errors in consistency, or grammatical errors.



1 Public notice of any revisions shall be posted on the website~~[Web-site]~~ of the  
2 commission. The revision shall be subject to challenge by any person for a period  
3 of thirty (30) days after posting. The revision may be challenged only on grounds  
4 that the revision results in a material change to a rule. A challenge shall be made in  
5 writing and delivered to the chair of the commission prior to the end of the notice  
6 period. If no challenge is made, the revision shall take effect without further action.  
7 If the revision is challenged, the revision may not take effect without the approval  
8 of the commission.

## 9 SECTION 11. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

### 10 A. Oversight

- 11 1. The executive, legislative, and judicial branches of state government in each  
12 member state shall enforce this Compact and take all actions necessary and  
13 appropriate to effectuate the Compact's purposes and intent. The provisions of  
14 this Compact and the rules promulgated hereunder shall have standing as  
15 statutory law.
- 16 2. All courts shall take judicial notice of the Compact and the rules in any  
17 judicial or administrative proceeding in a member state pertaining to the  
18 subject matter of this Compact which may affect the powers, responsibilities,  
19 or actions of the commission.
- 20 3. The commission shall be entitled to receive service of process in any such  
21 proceeding, and shall have standing to intervene in such a proceeding for all  
22 purposes. Failure to provide service of process to the commission shall render  
23 a judgment or order void as to the commission, this Compact, or promulgated  
24 rules.

### 25 B. Default, technical assistance, and termination

- 26 1. If the commission determines that a member state has defaulted in the  
27 performance of its obligations or responsibilities under this Compact or the

- 1 promulgated rules, the commission shall:
- 2 a. Provide written notice to the defaulting state and other member states of
- 3 the nature of the default, the proposed means of curing the default, and
- 4 any other actions to be taken by the commission; and
- 5 b. Provide remedial training and specific technical assistance regarding the
- 6 default.
- 7 2. If a state in default fails to cure the default, the defaulting state may be
- 8 terminated from the Compact upon an affirmative vote of a majority of the
- 9 member states, and all rights, privileges, and benefits conferred by this
- 10 Compact may be terminated on the effective date of termination. A cure of the
- 11 default does not relieve the offending state of obligations or liabilities
- 12 incurred during the period of default.
- 13 3. Termination of membership in the Compact shall be imposed only after all
- 14 other means of securing compliance have been exhausted. Notice of intent to
- 15 suspend or terminate shall be given by the commission to the governor, the
- 16 majority and minority leaders of the defaulting state's legislature, and each of
- 17 the member states.
- 18 4. A state that has been terminated is responsible for all assessments,
- 19 obligations, and liabilities incurred through the effective date of termination,
- 20 including obligations that extend beyond the effective date of termination.
- 21 5. The commission shall not bear any costs related to a state that is found to be
- 22 in default or that has been terminated from the Compact, unless agreed upon
- 23 in writing between the commission and the defaulting state.
- 24 6. The defaulting state may appeal the action of the commission by petitioning
- 25 the United States District Court for the District of Columbia or the federal
- 26 district where the commission has its principal offices. The prevailing
- 27 member shall be awarded all costs of such litigation, including reasonable

1 attorney's fees.

2 C. Dispute resolution

3 1. Upon request by a member state, the commission shall attempt to resolve  
4 disputes related to the Compact that arise among member states and between  
5 member and nonmember states.

6 2. The commission shall promulgate a rule providing for both mediation and  
7 binding dispute resolution for disputes as appropriate.

8 D. Enforcement

9 1. The commission, in the reasonable exercise of its discretion, shall enforce the  
10 provisions and rules of this Compact.

11 2. By majority vote, the commission may initiate legal action in the United  
12 States District Court for the District of Columbia or the federal district where  
13 the commission has its principal offices against a member state in default to  
14 enforce compliance with the provisions of the Compact and its promulgated  
15 rules and bylaws. The relief sought may include both injunctive relief and  
16 damages. In the event judicial enforcement is necessary, the prevailing  
17 member shall be awarded all costs of such litigation, including reasonable  
18 attorney's fees.

19 3. The remedies herein shall not be the exclusive remedies of the commission.  
20 The commission may pursue any other remedies available under federal or  
21 state law.

22 SECTION 12. DATE OF IMPLEMENTATION OF THE INTERSTATE  
23 COMMISSION FOR OCCUPATIONAL THERAPY PRACTICE AND ASSOCIATED  
24 RULES, WITHDRAWAL, AND AMENDMENT

25 A. The Compact shall come into effect on the date on which the Compact statute is  
26 enacted into law in the tenth member state. The provisions, which become effective  
27 at that time, shall be limited to the powers granted to the commission relating to

1 assembly and the promulgation of rules. Thereafter, the commission shall meet and  
2 exercise rulemaking powers necessary to the implementation and administration of  
3 the Compact.

4 B. Any state that joins the Compact subsequent to the commission's initial adoption of  
5 the rules shall be subject to the rules as they exist on the date on which the Compact  
6 becomes law in that state. Any rule that has been previously adopted by the  
7 commission shall have the full force and effect of law on the day the Compact  
8 becomes law in that state.

9 C. Any member state may withdraw from this Compact by enacting a statute repealing  
10 the Compact.

11 1. A member state's withdrawal shall not take effect until six (6) months after  
12 enactment of the repealing statute.

13 2. Withdrawal shall not affect the continuing requirement of the withdrawing  
14 state's occupational therapy licensing board to comply with the investigative  
15 and adverse action reporting requirements of this Compact prior to the  
16 effective date of withdrawal.

17 D. Nothing contained in this Compact shall be construed to invalidate or prevent any  
18 occupational therapy licensure agreement or other cooperative arrangement  
19 between a member state and a nonmember state that does not conflict with the  
20 provisions of this Compact.

21 E. This Compact may be amended by the member states. No amendment to this  
22 Compact shall become effective and binding upon any member state until it is  
23 enacted into the laws of all member states.

#### 24 SECTION 13. CONSTRUCTION AND SEVERABILITY

25 This Compact shall be liberally construed so as to effectuate its purposes. The provisions  
26 of this Compact shall be severable and if any phrase, clause, sentence, or provision of this  
27 Compact is declared to be contrary to the constitution of any member state or of the

1 United States or the applicability thereof to any government, agency, person, or  
2 circumstance is held invalid, the validity of the remainder of this Compact and its  
3 applicability to any government, agency, person, or circumstance shall not be affected  
4 thereby. If this Compact shall be held contrary to the constitution of any member state,  
5 the Compact shall remain in full force and effect as to the remaining member states and  
6 in full force and effect as to the member state affected as to all severable matters.

#### 7 SECTION 14. BINDING EFFECT OF COMPACT AND OTHER LAWS

- 8 A. A licensee providing occupational therapy in a remote state under the Compact  
9 privilege shall function within the laws and regulations of the remote state.
- 10 B. Nothing herein prevents the enforcement of any other law of a member state that is  
11 not inconsistent with the Compact.
- 12 C. Any laws in a member state in conflict with the Compact are superseded to the  
13 extent of the conflict.
- 14 D. Any lawful actions of the commission, including all rules and bylaws promulgated  
15 by the commission, are binding upon the member states.
- 16 E. All agreements between the commission and the member states are binding in  
17 accordance with their terms.
- 18 F. In the event any provision of the Compact exceeds the constitutional limits imposed  
19 on the legislature of any member state, the provision shall be ineffective to the  
20 extent of the conflict with the constitutional provision in question in that member  
21 state.

#### 22 SECTION 15. APPLICABILITY TO KENTUCKY STATE GOVERNMENT

23 In order to clarify the effect of certain provisions of this Compact and to ensure that the  
24 rights and responsibilities of the various branches of government are maintained, the  
25 following shall be in effect in this state:

- 26 A. By entering into this Compact, this state authorizes the state licensing board as  
27 defined in Section 2 of this Compact and as created by KRS Chapter 319A to

1           implement the provisions of this Compact.

2       B.   Notwithstanding any provision of this Compact to the contrary:

3           1.   When a rule is adopted pursuant to Section 10 of this Compact, the licensing  
4               board as defined by Section 2 of this Compact shall have sixty (60) days to  
5               review the rule for the purpose of filing the rule as an emergency  
6               administrative regulation pursuant to KRS 13A.190 and for filing the rule as  
7               an accompanying ordinary administrative regulation, following the  
8               requirements of KRS Chapter 13A. Failure by the licensing board as defined  
9               by Section 2 of this Compact to promulgate a rule adopted by the  
10              Occupational Therapy Compact Commission as an administrative regulation  
11              pursuant to KRS Chapter 13A shall result in the initiation of the process for  
12              withdrawal as set forth in Section 12 of this Compact. Nothing in these  
13              provisions shall negate the applicability and effect of Section 10 of this  
14              Compact to this state.

15          2.   If the proposed administrative regulation is found deficient and the deficiency  
16               is not resolved pursuant to KRS 13A.330 or 13A.335 or Section 6 of this Act,  
17               the provisions of Section 11 of this Compact shall apply. If the procedures  
18               under Section 11 of this Compact fail to resolve an issue, the provisions of  
19               Section 12 of this Compact shall apply.

20          3.   If the Occupational Therapy Compact Commission created by Section 8 of  
21               this Compact exercises its rulemaking authority in a manner that is beyond the  
22               scope of the purposes of this Compact, or the powers granted under this  
23               Compact, then such an action by the commission shall be invalid and have no  
24               force or effect.

25       C.   Section 8F. of this Compact pertaining to the financing of the commission shall not  
26              be interpreted to obligate the general fund of this state. Any funds used to finance  
27              this Compact shall be from money collected pursuant to KRS 319A.060.

1 D. This Compact shall apply only to those occupational therapists and occupational  
2 therapy assistants who practice or work under a Compact privilege.

3 ➔Section 14. KRS 327.300 is amended to read as follows:

4 PHYSICAL THERAPY LICENSURE COMPACT

5 SECTION 1. PURPOSE

6 The purpose of this Compact is to facilitate interstate practice of physical therapy with  
7 the goal of improving public access to physical therapy services. The practice of physical  
8 therapy occurs in the state where the patient or client is located at the time of the patient  
9 or client encounter. The Compact preserves the regulatory authority of states to protect  
10 public health and safety through the current system of state licensure.

11 This Compact is designed to achieve the following objectives:

- 12 1. Increase public access to physical therapy services by providing for the mutual  
13 recognition of other member state licenses;
- 14 2. Enhance the states' ability to protect the public's health and safety;
- 15 3. Encourage the cooperation of member states in regulating multistate physical  
16 therapy practice;
- 17 4. Support spouses of relocating military members;
- 18 5. Enhance the exchange of licensure, investigative, and disciplinary information  
19 between member states; and
- 20 6. Allow a remote state to hold a provider of services with a compact privilege in that  
21 state accountable to that state's practice standards.

22 SECTION 2. DEFINITIONS

23 As used in this Compact, and except as otherwise provided, the following definitions  
24 shall apply:

- 25 1. "Active duty military" means full-time duty status in the active uniformed service  
26 of the United States, including members of the National Guard and Reserve on  
27 active duty orders pursuant to 10 U.S.C. secs. 1209 and 1211;

- 1 2. "Adverse action" means disciplinary action taken by a physical therapy licensing  
2 board based upon misconduct, unacceptable performance, or a combination of both;
- 3 3. "Alternative program" means a nondisciplinary monitoring or practice remediation  
4 process approved by a physical therapy licensing board. This includes but is not  
5 limited to substance abuse issues;
- 6 4. "Compact privilege" means the authorization granted by a remote state to allow a  
7 licensee from another member state to practice as a physical therapist or work as a  
8 physical therapist assistant in the remote state under its laws and rules. The practice  
9 of physical therapy occurs in the member state where the patient or client is located  
10 at the time of the patient or client encounter;
- 11 5. "Continuing competence" means a requirement, as a condition of license renewal,  
12 to provide evidence of participation in, completion of, or both participation in and  
13 completion of educational and professional activities relevant to practice or area of  
14 work;
- 15 6. "Data system" means a repository of information about licensees, including  
16 examination, licensure, investigative, compact privilege, and adverse action;
- 17 7. "Encumbered license" means a license that a physical therapy licensing board has  
18 limited in any way;
- 19 8. "Executive board" means a group of directors elected or appointed to act on behalf  
20 of, and within the powers granted to them by, the commission;
- 21 9. "Home state" means the member state that is the licensee's primary state of  
22 residence;
- 23 10. "Investigative information" means information, records, and documents received or  
24 generated by a physical therapy licensing board pursuant to an investigation;
- 25 11. "Jurisprudence requirement" means the assessment of an individual's knowledge of  
26 the laws and rules governing the practice of physical therapy in a state;
- 27 12. "Licensee" means an individual who currently holds an authorization from the state



- 1 to practice as a physical therapist or to work as a physical therapist assistant;
- 2 13. "Member state" means a state that has enacted the Compact;
- 3 14. "Party state" means any member state in which a licensee holds a current license or  
4 compact privilege or is applying for a license or compact privilege;
- 5 15. "Physical therapist" means an individual who is licensed by a state to practice  
6 physical therapy;
- 7 16. "Physical therapist assistant" means an individual who is licensed or certified by a  
8 state and who assists the physical therapist in selected components of physical  
9 therapy;
- 10 17. "Physical therapy," "physical therapy practice," and "the practice of physical  
11 therapy" mean the care and services provided by or under the direction and  
12 supervision of a licensed physical therapist;
- 13 18. "Physical Therapy Compact Commission" or "commission" means the national  
14 administrative body whose membership consists of all states that have enacted the  
15 Compact;
- 16 19. "Physical therapy licensing board" or "licensing board" means the agency of a state  
17 that is responsible for the licensing and regulation of physical therapists and  
18 physical therapist assistants;
- 19 20. "Remote state" means a member state other than the home state where a licensee is  
20 exercising or seeking to exercise the compact privilege;
- 21 21. "Rule" means a regulation, principle, or directive promulgated by the commission  
22 that has the force of law; and
- 23 22. "State" means any state, commonwealth, district, or territory of the United States of  
24 America that regulates the practice of physical therapy.

25 **SECTION 3. STATE PARTICIPATION IN THE COMPACT**

26 A. To participate in the Compact, a state shall:

- 27 1. Participate fully in the commission's data system, including using the

- 1 commission's unique identifier as defined in rules;
- 2 2. Have a mechanism in place for receiving and investigating complaints about
- 3 licensees;
- 4 3. Notify the commission, in compliance with the terms of the Compact and
- 5 rules, of any adverse action or the availability of investigative information
- 6 regarding a licensee;
- 7 4. Fully implement a criminal background check requirement, within a time
- 8 frame established by rule, by receiving the results of the Federal Bureau of
- 9 Investigation record search on criminal background checks and use the results
- 10 in making licensure decisions in accordance with Section 3.B. of this
- 11 Compact;
- 12 5. Comply with the rules of the commission;
- 13 6. Utilize a recognized national examination as a requirement for licensure
- 14 pursuant to the rules of the commission; and
- 15 7. Have continuing competence requirements as a condition for license renewal.
- 16 B. Upon adoption of this statute, the member state may obtain biometric-based
- 17 information from each physical therapy licensure applicant and submit this
- 18 information to the Federal Bureau of Investigation for a criminal background check
- 19 in accordance with 28 U.S.C. sec. 534 and 42 U.S.C. sec. 14616.
- 20 C. A member state shall grant the compact privilege to a licensee holding a valid
- 21 unencumbered license in another member state in accordance with the terms of the
- 22 Compact and rules.
- 23 D. Member states may charge a fee for granting a compact privilege.

#### 24 SECTION 4. COMPACT PRIVILEGE

- 25 A. To exercise the compact privilege under the terms and provisions of the Compact,
- 26 the licensee shall:
  - 27 1. Hold a license in the home state;

- 1        2.    Have no encumbrance on any state license;
- 2        3.    Be eligible for a compact privilege in any member state in accordance with
- 3                Section 4.D., G., and H. of this Compact;
- 4        4.    Have not had any adverse action against any license or compact privilege
- 5                within the previous two (2) years;
- 6        5.    Notify the commission that the licensee is seeking the compact privilege
- 7                within a remote state or states;
- 8        6.    Pay any applicable fees, including any state fee, for the compact privilege;
- 9        7.    Meet any jurisprudence requirements established by the remote state or states
- 10                in which the licensee is seeking a compact privilege; and
- 11        8.    Report to the commission adverse action taken by any nonmember state
- 12                within thirty (30) days from the date the adverse action is taken.
- 13    B.    The compact privilege is valid until the expiration date of the home license. The
- 14                licensee shall comply with the requirements of Section 4.A. of this Compact to
- 15                maintain the compact privilege in the remote state.
- 16    C.    A licensee providing physical therapy in a remote state under the compact privilege
- 17                shall function within the laws and regulations of the remote state.
- 18    D.    A licensee providing physical therapy in a remote state is subject to that state's
- 19                regulatory authority. A remote state may, in accordance with due process and that
- 20                state's laws, enforce any one (1) or combination of the following:
- 21                1.    Remove a licensee's compact privilege in the remote state for a specific period
- 22                        of time;
- 23                2.    Impose fines; and
- 24                3.    Take any other necessary actions to protect the health and safety of its
- 25                        citizens.
- 26                The licensee is not eligible for a compact privilege in any state until the specific
- 27                time for removal has passed and all fines are paid.

- 1 E. If a home state license is encumbered, the licensee shall lose the compact privilege  
2 in any remote state until the following occur:
- 3 1. The home state license is no longer encumbered; and
  - 4 2. Two (2) years have elapsed from the date of the adverse action.
- 5 F. Once an encumbered license in the home state is restored to good standing, the  
6 licensee shall meet the requirements of Section 4.A. of this Compact to obtain a  
7 compact privilege in any remote state.
- 8 G. If a licensee's compact privilege in any remote state is removed, the individual shall  
9 lose the compact privilege in any remote state until the following occur:
- 10 1. The specific period of time for which the compact privilege was removed has  
11 ended;
  - 12 2. All fines have been paid; and
  - 13 3. Two (2) years have elapsed from the date of the adverse action.
- 14 H. Once the requirements of Section 4.G. of this Compact have been met, the license  
15 shall meet the requirements in Section 4.A. of this Compact to obtain a compact  
16 privilege in a remote state.

#### 17 SECTION 5. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

18 A licensee who is active duty military or is the spouse of an individual who is active duty  
19 military may designate one (1) of the following as the home state:

- 20 A. Home of record;
- 21 B. Permanent Change of Station (PCS); or
- 22 C. State of current residence if it is different than the PCS state or home of record.

#### 23 SECTION 6. ADVERSE ACTIONS

- 24 A. A home state shall have exclusive power to impose adverse action against a license  
25 issued by the home state.
- 26 B. A home state may take adverse action based on the investigative information of a  
27 remote state, so long as the home state follows its own procedures for imposing

1 adverse action.

2 C. Nothing in this Compact shall override a member state's decision that participation  
3 in an alternative program may be used in lieu of adverse action and that this  
4 participation shall remain nonpublic if required by the member state's laws.  
5 Member states shall require licensees who enter any alternative programs in lieu of  
6 discipline to agree not to practice in any other member state during the term of the  
7 alternative program without prior authorization from that other member state.

8 D. Any member state may investigate actual or alleged violations of the statutes and  
9 rules authorizing the practice of physical therapy in any other member state in  
10 which a physical therapist or physical therapist assistant holds a license or compact  
11 privilege.

12 E. A remote state may:

13 1. Take adverse actions as set forth in Section 4.D. of this Compact against a  
14 licensee's compact privilege in the state;

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

25 3. If otherwise permitted by state law, recover from the licensee the costs of  
26 investigations and disposition of cases resulting from any adverse action taken  
27 against that licensee.

1 F. Joint Investigations

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

5 2. Member states shall share any investigative, litigation, or compliance  
6 materials in furtherance of any joint or individual investigation initiated under  
7 the Compact.

8 SECTION 7. ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT  
9 COMMISSION

10 A. The Compact member states hereby create and establish a joint public agency  
11 known as the Physical Therapy Compact Commission:

12 1. The commission is an instrumentality of the Compact states.

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

18 3. Nothing in this Compact shall be construed to be a waiver of sovereign  
19 immunity.

20 B. Membership, Voting, and Meetings

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

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

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

- 1       4.    The member state board shall fill any vacancy occurring in the commission.
- 2       5.    Each delegate shall be entitled to one (1) vote with regard to the promulgation
- 3           of rules and creation of bylaws and shall otherwise have an opportunity to
- 4           participate in the business and affairs of the commission.
- 5       6.    A delegate shall vote in person or by such other means as provided in the
- 6           bylaws. The bylaws may provide for delegates' participation in meetings by
- 7           telephone or other means of communication.
- 8       7.    The commission shall meet at least once during each calendar year.
- 9           Additional meetings shall be held as set forth in the bylaws.
- 10    C.    The commission has the following powers and duties:
- 11       1.    Establish the fiscal year of the commission;
- 12       2.    Establish bylaws;
- 13       3.    Maintain its financial records in accordance with the bylaws;
- 14       4.    Meet and take any actions consistent with the provisions of this Compact and
- 15           the bylaws;
- 16       5.    Promulgate uniform rules to facilitate and coordinate implementation and
- 17           administration of this Compact. The rules shall have the force of law and shall
- 18           be binding in all member states;
- 19       6.    Bring and prosecute legal proceedings or actions in the name of the
- 20           commission, provided that the standing of any state physical therapy licensing
- 21           board to sue or be sued under applicable law shall not be affected;
- 22       7.    Purchase and maintain insurance and bonds;
- 23       8.    Borrow, accept, or contract for services of personnel, including but not limited
- 24           to employees of a member state;
- 25       9.    Hire employees, elect or appoint officers, fix compensation, define duties,
- 26           grant these individuals appropriate authority to carry out the purposes of the
- 27           Compact, and establish the commission's personnel policies and programs

- 1 relating to conflicts of interest, qualifications of personnel, and other related  
2 personnel matters;
- 3 10. Accept, receive, utilize, and dispose of any appropriate donations and grants  
4 of money, equipment, supplies, materials, and services. At all times the  
5 commission shall avoid any appearance of impropriety, conflict of interest, or  
6 both;
- 7 11. Lease, purchase, accept appropriate gifts or donations of, or otherwise own,  
8 hold, improve, or use any real, personal, or mixed property. At all times the  
9 commission shall avoid any appearance of impropriety;
- 10 12. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise  
11 dispose of any real, personal, or mixed property;
- 12 13. Establish a budget and make expenditures;
- 13 14. Borrow money;
- 14 15. Appoint committees, including standing committees composed of members,  
15 state regulators, state legislators or their representatives, consumer  
16 representatives, and any other interested persons as designated in this  
17 Compact and the bylaws;
- 18 16. Provide and receive information from, and cooperate with, law enforcement  
19 agencies;
- 20 17. Establish and elect an executive board; and
- 21 18. Perform any other necessary or appropriate functions to achieve the purposes  
22 of this Compact consistent with the state regulation of physical therapy  
23 licensure and practice.

24 D. The Executive Board

25 The executive board may act on behalf of the commission according to the terms of  
26 this Compact.

- 27 1. The executive board shall be composed of nine (9) members:



- 1 a. Seven (7) voting members who are elected by the commission from the  
2 current membership of the commission;
- 3 b. One (1) ex officio, nonvoting member from the recognized national  
4 physical therapy professional association; and
- 5 c. One (1) ex officio, nonvoting member from the recognized membership  
6 organization of the physical therapy licensing boards.
- 7 2. The ex officio members shall be selected by their respective organizations.
- 8 3. The commission may remove any member of the executive board as provided  
9 in bylaws.
- 10 4. The executive board shall meet at least once annually.
- 11 5. The executive board shall have the following duties and responsibilities:
  - 12 a. Recommend to the entire commission changes to the rules or bylaws,  
13 changes to this Compact legislation, fees paid by Compact member  
14 states such as annual dues, and any commission Compact fee charged to  
15 licensees for the compact privilege;
  - 16 b. Ensure Compact administration services are appropriately provided,  
17 contractual or otherwise;
  - 18 c. Prepare and recommend the budget;
  - 19 d. Maintain financial records on behalf of the commission;
  - 20 e. Monitor Compact compliance of member states and provide compliance  
21 reports to the commission;
  - 22 f. Establish additional committees as necessary; and
  - 23 g. Other duties as provided in rules or bylaws.
- 24 E. Meetings of the Commission
  - 25 1. All meetings shall be open to the public, and public notice of meetings shall  
26 be given in the same manner as required under the rulemaking provisions in  
27 Section 9 of this Compact.

- 1           2.    The commission, the executive board, or other committees of the commission  
2                    may convene in a closed, nonpublic meeting if the commission, executive  
3                    board, or other committees of the commission need to discuss:
- 4                    a.    Noncompliance of a member state with its obligations under the  
5                                Compact;
- 6                    b.    The employment, compensation, discipline, or other matters, practices,  
7                                or procedures related to specific employees or other matters related to  
8                                the commission's internal personnel practices and procedures;
- 9                    c.    Current, threatened, or reasonably anticipated litigation;
- 10                  d.    Negotiation of contracts for the purchase, lease, or sale of goods,  
11                                services, or real estate;
- 12                  e.    Accusing any person of a crime or formally censuring any person;
- 13                  f.    Disclosure of trade secrets or commercial or financial information that is  
14                                privileged or confidential;
- 15                  g.    Disclosure of information of a personal nature where disclosure would  
16                                constitute a clearly unwarranted invasion of personal privacy;
- 17                  h.    Disclosure of investigative records compiled for law enforcement  
18                                purposes;
- 19                  i.    Disclosure of information related to any investigative reports prepared  
20                                by, on behalf of, or for use of the commission or another committee  
21                                charged with responsibility of investigation or determination of  
22                                compliance issues pursuant to the Compact; or
- 23                  j.    Matters specifically exempted from disclosure by federal or member  
24                                state statute.
- 25            3.    If a meeting, or portion of a meeting, is closed pursuant to this provision, the  
26                    commission's legal counsel or designee shall certify that the meeting may be  
27                    closed and shall reference each relevant exempting provision.

1           4.    The commission shall keep minutes that fully and clearly describe all matters  
2           discussed in a meeting and shall provide a full and accurate summary of  
3           actions taken, and the reasons for the actions, including a description of the  
4           views expressed. All documents considered in connection with an action shall  
5           be identified in these minutes. All minutes and documents of a closed meeting  
6           shall remain under seal, subject to release by a majority vote of the  
7           commission or order of a court of competent jurisdiction.

8    F.    Financing of the Commission

9           1.    The commission shall pay, or provide for the payment of, the reasonable  
10          expenses of its establishment, organization, and ongoing activities.

11          2.    The commission may accept any and all appropriate revenue sources,  
12          donations, and grants of money, equipment, supplies, materials, and services.

13          3.    The commission may levy on and collect an annual assessment from each  
14          member state or impose fees on other parties to cover the cost of the  
15          operations and activities of the commission and its staff, which shall be in a  
16          total amount sufficient to cover its annual budget as approved each year for  
17          which revenue is not provided by other sources. The aggregate annual  
18          assessment amount shall be allocated based upon a formula to be determined  
19          by the commission, which shall promulgate a rule that is binding upon all  
20          member states.

21          4.    The commission shall not incur obligations of any kind prior to securing the  
22          funds adequate to meet the obligations, nor shall the commission pledge the  
23          credit of any of the member states, except by and with the authority of the  
24          member state.

25          5.    The commission shall keep accurate accounts of all receipts and  
26          disbursements. The receipts and disbursements of the commission shall be  
27          subject to the audit and accounting procedures established under its bylaws.

1 All receipts and disbursements of funds handled by the commission shall be  
2 audited yearly by a certified or licensed public accountant, and the report of  
3 the audit shall be included in and become part of the annual report of the  
4 commission.

5 G. Qualified Immunity, Defense, and Indemnification

6 1. The members, officers, executive director, employees, and representatives of  
7 the commission shall be immune from suit and liability, either personally or in  
8 their official capacity, for any claim for damage to or loss of property or  
9 personal injury or other civil liability caused by or arising out of any actual or  
10 alleged act, error, or omission that occurred, or that the person against whom  
11 the claim is made had a reasonable basis for believing occurred, within the  
12 scope of commission employment, duties, or responsibilities. Nothing in this  
13 paragraph shall be construed to protect any person from suit, liability, or both  
14 for any damage, loss, injury, or liability caused by the intentional, willful, or  
15 wanton misconduct of that person.

16 2. The commission shall defend any member, officer, executive director,  
17 employee, or representative of the commission in any civil action seeking to  
18 impose liability arising out of any actual or alleged act, error, or omission that  
19 occurred within the scope of commission employment, duties, or  
20 responsibilities, or that the person against whom the claim is made had a  
21 reasonable basis for believing occurred within the scope of commission  
22 employment, duties, or responsibilities, if the actual or alleged act, error, or  
23 omission did not result from that person's intentional, willful, or wanton  
24 misconduct. Nothing in this paragraph shall be construed to prohibit that  
25 person from retaining his or her own counsel.

26 3. The commission shall indemnify and hold harmless any member, officer,  
27 executive director, employee, or representative of the commission for the

1 amount of any settlement or judgment obtained against that person arising out  
2 of any actual or alleged act, error, or omission that occurred within the scope  
3 of commission employment, duties, or responsibilities, or that the person had  
4 a reasonable basis for believing occurred within the scope of commission  
5 employment, duties, or responsibilities, if the actual or alleged act, error, or  
6 omission did not result from the intentional, willful, or wanton misconduct of  
7 that person.

8 SECTION 8. DATA SYSTEM

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

12 B. Notwithstanding any other provision of state law to the contrary, a member state  
13 shall submit a uniform data set to the data system on all individuals to whom this  
14 Compact is applicable as required by the rules of the commission, including:

- 15 1. Identifying information;
- 16 2. Licensure data;
- 17 3. Adverse actions against a license or compact privilege;
- 18 4. Nonconfidential information related to alternative program participation;
- 19 5. Any denial of application for licensure, and the reason or reasons for the  
20 denial; and
- 21 6. Other information that may facilitate the administration of this Compact, as  
22 determined by the rules of the commission.

23 C. Investigative information pertaining to a licensee in any member state shall only be  
24 available to other party states.

25 D. The commission shall promptly notify all member states of any adverse action  
26 taken against a licensee or an individual applying for a license. Adverse action  
27 information pertaining to a licensee in any member state shall be available to any

1 other member state.

2 E. Member states contributing information to the data system may designate  
3 information that may not be shared with the public without the express permission  
4 of the contributing state.

5 F. Any information submitted to the data system that is subsequently required to be  
6 expunged by the laws of the member state contributing the information shall be  
7 removed from the data system.

## 8 SECTION 9. RULEMAKING

9 A. The commission shall exercise its rulemaking powers pursuant to the criteria set  
10 forth in this section and the rules adopted under this section. Rules and amendments  
11 shall become binding as of the date specified in each rule or amendment.

12 B. If a majority of the legislatures of the member states reject a rule within four (4)  
13 years of the date of adoption of the rule, by enactment of a statute or resolution in  
14 the same manner used to adopt the Compact, then the rule shall have no further  
15 effect in any member state.

16 C. Rules or amendments to the rules shall be adopted at a regular or special meeting of  
17 the commission.

18 D. Prior to promulgation and adoption of a final rule or rules by the commission, and  
19 at least thirty (30) days in advance of the meeting at which the rule will be  
20 considered and voted upon, the commission shall file a Notice of Proposed  
21 Rulemaking:

22 1. On the website~~[Web site]~~ of the commission or other publicly accessible  
23 platform; and

24 2. On the website~~[Web site]~~ of each member state physical therapy licensing  
25 board or other publicly accessible platform or the publication in which each  
26 state would otherwise publish proposed rules.

27 E. The Notice of Proposed Rulemaking shall include:

- 1           1.    The proposed time, date, and location of the meeting in which the rule will be  
2                    considered and voted upon;
- 3           2.    The text of the proposed rule or amendment and the reason for the proposed  
4                    rule;
- 5           3.    A request for comments on the proposed rule from any interested person; and
- 6           4.    How interested persons may submit notice to the commission of their  
7                    intention to attend the public hearing and submit any written comments.
- 8    F.    Prior to adoption of a proposed rule, the commission shall allow persons to submit  
9            written data, facts, opinions, and arguments, which shall be made available to the  
10           public.
- 11   G.    The commission shall grant an opportunity for a public hearing before it adopts a  
12           rule or amendment if a hearing is requested by:
  - 13           1.    At least twenty-five (25) persons;
  - 14           2.    A state or federal governmental subdivision or agency; or
  - 15           3.    An association having at least twenty-five (25) members.
- 16   H.    If a hearing is held on the proposed rule or amendment, the commission shall  
17           publish the place, time, and date of the scheduled public hearing. If the hearing is  
18           held via electronic means, the commission shall publish the mechanism for access  
19           to the electronic hearing.
  - 20           1.    All persons wishing to be heard at the hearing shall notify the executive  
21                    director of the commission or other designated member in writing of their  
22                    desire to appear and testify at the hearing not less than five (5) business days  
23                    before the scheduled date of the hearing.
  - 24           2.    Hearings shall be conducted in a manner providing each person who wishes to  
25                    comment a fair and reasonable opportunity to comment orally or in writing.
  - 26           3.    All hearings shall be recorded. A copy of the recording shall be made  
27                    available on request.

- 1           4. Nothing in this section shall be construed as requiring a separate hearing on  
2           each rule. Rules may be grouped for the convenience of the commission at  
3           hearings required by this section.
- 4    I. Following the scheduled hearing date, or by the close of business on the scheduled  
5           hearing date if the hearing was not held, the commission shall consider all written  
6           and oral comments received.
- 7    J. If no written notice of intent to attend the public hearing by interested parties is  
8           received, the commission may proceed with promulgation of the proposed rule  
9           without a public hearing.
- 10   K. The commission shall, by majority vote of all members, take final action on the  
11           proposed rule and shall determine the effective date of the rule, if any, based on the  
12           rulemaking record and the full text of the rule.
- 13   L. Upon determination that an emergency exists, the commission may consider and  
14           adopt an emergency rule without prior notice, opportunity for comment, or hearing,  
15           provided that the usual rulemaking procedures provided in the Compact and in this  
16           section shall be retroactively applied to the rule as soon as reasonably possible, in  
17           no event later than ninety (90) days after the effective date of the rule. For the  
18           purposes of this provision, an emergency rule is one that requires immediate  
19           adoption in order to:
- 20           1. Meet an imminent threat to public health, safety, or welfare;  
21           2. Prevent a loss of commission or member state funds;  
22           3. Meet a deadline for the promulgation of an administrative rule that is  
23           established by federal law or rule; or  
24           4. Protect public health and safety.
- 25   M. The commission or an authorized committee of the commission may direct  
26           revisions to a previously adopted rule or amendment for purposes of correcting  
27           typographical errors, errors in format, errors in consistency, or grammatical errors.



1 Public notice of any revisions shall be posted on the website~~[Web-site]~~ of the  
2 commission. The revision shall be subject to challenge by any person for a period  
3 of thirty (30) days after posting. The revision may be challenged only on grounds  
4 that the revision results in a material change to a rule. A challenge shall be made in  
5 writing, and delivered to the chair of the commission prior to the end of the notice  
6 period. If no challenge is made, the revision shall take effect without further action.  
7 If the revision is challenged, the revision may not take effect without the approval  
8 of the commission.

## 9 SECTION 10. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

### 10 A. Oversight

- 11 1. The executive, legislative, and judicial branches of state government in each  
12 member state shall enforce this Compact and take all actions necessary and  
13 appropriate to effectuate the Compact's purposes and intent. The provisions of  
14 this Compact and the rules promulgated under this Compact shall have  
15 standing as statutory law.
- 16 2. All courts shall take judicial notice of the Compact and the rules in any  
17 judicial or administrative proceeding in a member state pertaining to the  
18 subject matter of this Compact that may affect the powers, responsibilities, or  
19 actions of the commission.
- 20 3. The commission shall be entitled to receive service of process in any judicial  
21 or administrative proceeding relating to this Compact, and shall have standing  
22 to intervene for all purposes in any judicial or administrative proceeding  
23 relating to this Compact. Failure to provide service of process to the  
24 commission shall render a judgment or order void as to the commission, this  
25 Compact, or promulgated rules.

### 26 B. Default, Technical Assistance, and Termination

- 27 1. If the commission determines that a member state has defaulted in the

- 1 performance of its obligations or responsibilities under this Compact or the  
2 promulgated rules, the commission shall:
- 3 a. Provide written notice to the defaulting state and other member states  
4 regarding any one (1) or any combination of the following: the nature of  
5 the default, the proposed means of curing the default, and any other  
6 action to be taken by the commission; and
- 7 b. Provide remedial training and specific technical assistance regarding the  
8 default.
- 9 2. If a state in default fails to cure the default, the defaulting state may be  
10 terminated from the Compact upon an affirmative vote of a majority of the  
11 member states, and all rights, privileges, and benefits conferred by this  
12 Compact may be terminated on the effective date of termination. A cure of the  
13 default does not relieve the offending state of obligations or liabilities  
14 incurred during the period of default.
- 15 3. Termination of membership in the Compact shall be imposed only after all  
16 other means of securing compliance have been exhausted. Notice of intent to  
17 suspend or terminate shall be given by the commission to the Governor, the  
18 majority and minority leaders of the defaulting state's legislature, and each of  
19 the member states.
- 20 4. A state that has been terminated is responsible for all assessments,  
21 obligations, and liabilities incurred through the effective date of termination,  
22 including obligations that extend beyond the effective date of termination.
- 23 5. The commission shall not bear any costs related to a state that is found to be  
24 in default or that has been terminated from the Compact, unless agreed upon  
25 in writing between the commission and the defaulting state.
- 26 6. The defaulting state may appeal the action of the commission by petitioning  
27 the United States District Court for the District of Columbia or the federal

1 district where the commission has its principal offices. The prevailing  
2 member shall be awarded all costs of this litigation, including reasonable  
3 attorney's fees.

4 C. Dispute Resolution

5 1. Upon request by a member state, the commission shall attempt to resolve  
6 disputes related to the Compact that arise among member states and between  
7 member and nonmember states.

8 2. The commission shall promulgate a rule providing for both mediation and  
9 binding dispute resolution for disputes as appropriate.

10 D. Enforcement

11 1. The commission, in the reasonable exercise of its discretion, shall enforce the  
12 provisions and rules of this Compact.

13 2. By majority vote, the commission may initiate legal action in the United  
14 States District Court for the District of Columbia or the federal district where  
15 the commission has its principal offices against a member state in default to  
16 enforce compliance with the provisions of the Compact and its promulgated  
17 rules and bylaws. The relief sought may include both injunctive relief and  
18 damages. In the event judicial enforcement is necessary, the prevailing  
19 member shall be awarded all costs of the litigation, including reasonable  
20 attorney's fees.

21 3. The remedies authorized under this section shall not be the exclusive remedies  
22 of the commission. The commission may pursue any other remedies available  
23 under federal or state law.

24 SECTION 11. DATE OF IMPLEMENTATION OF THE INTERSTATE  
25 COMMISSION FOR PHYSICAL THERAPY PRACTICE AND ASSOCIATED  
26 RULES, WITHDRAWAL, AND AMENDMENT

27 A. The Compact shall come into effect on the date on which the Compact statute is

1 enacted into law in the tenth member state. The provisions, which become effective  
2 at that time, shall be limited to the powers granted to the commission relating to  
3 assembly and the promulgation of rules. Thereafter, the commission shall meet and  
4 exercise rulemaking powers necessary to the implementation and administration of  
5 the Compact.

6 B. Any state that joins the Compact subsequent to the commission's initial adoption of  
7 the rules shall be subject to the rules as they exist on the date on which the Compact  
8 becomes law in that state. Any rule that has been previously adopted by the  
9 commission shall have the full force of law on the day the Compact becomes law in  
10 that state.

11 C. Any member state may withdraw from this Compact by enacting a statute repealing  
12 the Compact.

13 1. A member state's withdrawal shall not take effect until six (6) months after  
14 enactment of the repealing statute.

15 2. Withdrawal shall not affect the continuing requirement of the withdrawing  
16 state's physical therapy licensing board to comply with the investigative and  
17 adverse action reporting requirements of this Compact prior to the effective  
18 date of withdrawal.

19 D. Nothing contained in this Compact shall be construed to invalidate or prevent any  
20 physical therapy licensure agreement or other cooperative arrangement between a  
21 member state and a nonmember state that does not conflict with the provisions of  
22 this Compact.

23 E. This Compact may be amended by the member states. No amendment to this  
24 Compact shall become effective and binding upon any member state until it is  
25 enacted into the laws of all member states.

## 26 SECTION 12. APPLICABILITY TO KENTUCKY STATE GOVERNMENT

27 In order to clarify the effect of certain provisions of this Compact and to ensure that the

1 rights and responsibilities of the various branches of government are maintained, the  
2 following shall be in effect in this state:

3 A. By entering into this Compact, this state authorizes the licensing board as defined in  
4 Section 2.19. of this Compact and as created by KRS Chapter 327 to implement the  
5 provisions of this Compact.

6 B. Notwithstanding any provision of this Compact to the contrary:

7 1. When a rule is adopted pursuant to Section 9 of this Compact, the licensing  
8 board of this state as defined by Section 2.19. of this Compact shall have sixty  
9 (60) days to review the rule for the purpose of filing the rule as an emergency  
10 administrative regulation pursuant to KRS 13A.190 and for filing the rule as  
11 an accompanying ordinary administrative regulation, following the  
12 requirements of KRS Chapter 13A. Failure by the licensing board of this state  
13 as defined by Section 2.19. of this Compact to promulgate a rule adopted by  
14 the Physical Therapy Compact Commission as an administrative regulation  
15 pursuant to KRS Chapter 13A shall result in the initiation of the process for  
16 withdrawal as set forth in Section 11 of this Compact. Nothing in these  
17 provisions shall negate the applicability and effect of Section 9.K. of this  
18 Compact to this state.

19 2. If the proposed administrative regulation is found deficient and the deficiency  
20 is not resolved pursuant to KRS 13A.330 or 13A.335 or Section 6 of this Act,  
21 the provisions of Section 10 of this Compact shall apply. If the procedures  
22 under Section 10 of this Compact fail to resolve an issue, the provisions of  
23 Section 11 of this Compact shall apply.

24 3. If the Physical Therapy Compact Commission created by Section 7 of this  
25 Compact exercises its rulemaking authority in a manner that is beyond the  
26 scope of the purposes of this Compact, or the powers granted under this  
27 Compact, then such an action by the commission shall be invalid and have no

1 force or effect.

2 C. Section 7.F. of this Compact pertaining to the financing of the commission shall not  
3 be interpreted to obligate the general fund of this state. Any funds used to finance  
4 this Compact shall be from money collected pursuant to KRS 327.080.

5 D. This Compact shall apply only to those physical therapists or physical therapist  
6 assistants who practice or work under a compact privilege.

### 7 SECTION 13. CONSTRUCTION AND SEVERABILITY

8 This Compact shall be liberally construed so as to effectuate its purposes. The provisions  
9 of this Compact shall be severable, and if any phrase, clause, sentence, or provision of  
10 this Compact is declared to be contrary to the constitution of any party state or of the  
11 United States, or the Compact's applicability to any government, agency, person, or  
12 circumstance is held invalid, it shall not affect the validity of the remainder of this  
13 Compact and its applicability to any government, agency, person, or circumstance. If this  
14 Compact is held contrary to the constitution of any party state, the Compact shall remain  
15 in full effect as to the remaining party states, and shall remain in full effect in the affected  
16 party state as to all severable matters.

17 ➔Section 15. KRS 334A.188 is amended to read as follows:

### 18 SECTION 1: PURPOSE

19 The purpose of this Compact is to facilitate interstate practice of audiology and speech-  
20 language pathology with the goal of improving public access to audiology and speech-  
21 language pathology services. The practice of audiology and speech-language pathology  
22 occurs in the state where the patient/client/student is located at the time of the  
23 patient/client/student encounter. The Compact preserves the regulatory authority of states  
24 to protect public health and safety through the current system of state licensure.

25 This Compact is designed to achieve the following objectives:

- 26 1. Increase public access to audiology and speech-language pathology services  
27 by providing for the mutual recognition of other member state licenses;

- 1           2.    Enhance the states' ability to protect the public's health and safety;
- 2           3.    Encourage the cooperation of member states in regulating multistate
- 3           audiology and speech-language pathology practice;
- 4           4.    Support spouses of relocating active duty military personnel;
- 5           5.    Enhance the exchange of licensure, investigative and disciplinary information
- 6           between member states;
- 7           6.    Allow a remote state to hold a provider of services with a compact privilege in
- 8           that state accountable to that state's practice standards; and
- 9           7.    Allow for the use of telehealth technology to facilitate increased access to
- 10          audiology and speech-language pathology services.

## 11 SECTION 2: DEFINITIONS

12 As used in this Compact, and except as otherwise provided, the following definitions  
13 shall apply:

- 14 A.    "Active duty military" means full-time duty status in the active uniformed service  
15          of the United States, including members of the National Guard and Reserve on  
16          active duty orders pursuant to 10 U.S.C. secs. 1209 and 1211;
- 17 B.    "Adverse action" means any administrative, civil, equitable or criminal action  
18          permitted by a state's laws which is imposed by a licensing board or other authority  
19          against an audiologist or speech-language pathologist, including actions against an  
20          individual's license or privilege to practice such as revocation, suspension,  
21          probation, monitoring of the licensee, or restriction on the licensee's practice.
- 22 C.    "Alternative program" means a non-disciplinary monitoring process approved by an  
23          audiology or speech-language pathology licensing board to address impaired  
24          practitioners.
- 25 D.    "Audiologist" means an individual who is licensed by a state to practice audiology.
- 26 E.    "Audiology" means the care and services provided by a licensed audiologist as set  
27          forth in the member state's statutes and rules.

- 1 F. "Audiology and Speech-Language Pathology Compact Commission" or  
2 "Commission" means the national administrative body whose membership consists  
3 of all states that have enacted the Compact.
- 4 G. "Audiology and speech-language pathology licensing board," "audiology licensing  
5 board," "speech-language pathology licensing board," or "licensing board" means  
6 the agency of a state that is responsible for the licensing and regulation of  
7 audiologists and/or speech-language pathologists.
- 8 H. "Compact privilege" means the authorization granted by a remote state to allow a  
9 licensee from another member state to practice as an audiologist or speech-language  
10 pathologist in the remote state under its laws and rules. The practice of audiology or  
11 speech-language pathology occurs in the member state where the  
12 patient/client/student is located at the time of the patient/client/student encounter.
- 13 I. "Current significant investigative information" means investigative information that  
14 a licensing board, after an inquiry or investigation that includes notification and an  
15 opportunity for the audiologist or speech-language pathologist to respond, if  
16 required by state law, has reason to believe is not groundless and, if proved true,  
17 would indicate more than a minor infraction.
- 18 J. "Data system" means a repository of information about licensees, including, but not  
19 limited to, continuing education, examination, licensure, investigative, compact  
20 privilege and adverse action.
- 21 K. "Encumbered license" means a license in which an adverse action restricts the  
22 practice of audiology or speech-language pathology by the licensee and said  
23 adverse action has been reported to the National Practitioners Data Bank (NPDB).
- 24 L. "Executive Committee" means a group of directors elected or appointed to act on  
25 behalf of, and within the powers granted to them by, the Commission.
- 26 M. "Home state" means the member state that is the licensee's primary state of  
27 residence.



- 1 N. "Impaired practitioner" means individuals whose professional practice is adversely  
2 affected by substance abuse, addiction, or other health-related conditions.
- 3 O. "Licensee" means an individual who currently holds an authorization from the state  
4 licensing board to practice as an audiologist or speech-language pathologist.
- 5 P. "Member state" means a state that has enacted the Compact.
- 6 Q. "Privilege to practice" means a legal authorization permitting the practice of  
7 audiology or speech-language pathology in a remote state.
- 8 R. "Remote state" means a member state other than the home state where a licensee is  
9 exercising or seeking to exercise the compact privilege.
- 10 S. "Rule" means a regulation, principle or directive promulgated by the Commission  
11 that has the force of law.
- 12 T. "Single-state license" means an audiology or speech-language pathology license  
13 issued by a member state that authorizes practice only within the issuing state and  
14 does not include a privilege to practice in any other member state.
- 15 U. "Speech-language pathologist" means an individual who is licensed by a state to  
16 practice speech-language pathology.
- 17 V. "Speech-language pathology" means the care and services provided by a licensed  
18 speech-language pathologist as set forth in the member state's statutes and rules.
- 19 W. "State" means any state, commonwealth, district or territory of the United States of  
20 America that regulates the practice of audiology and speech-language pathology.
- 21 X. "State practice laws" means a member state's laws, rules and regulations that govern  
22 the practice of audiology or speech-language pathology, define the scope of  
23 audiology or speech-language pathology practice, and create the methods and  
24 grounds for imposing discipline.
- 25 Y. "Telehealth" means the application of telecommunication technologies that meets  
26 the applicable standard of care to deliver audiology or speech-language pathology  
27 services at a distance for assessment, intervention and/or consultation.

## 1 SECTION 3: STATE PARTICIPATION IN THE COMPACT

- 2 A. A license issued to an audiologist or speech-language pathologist by a home state to  
3 a resident in that state shall be recognized by each member state as authorizing an  
4 audiologist or speech-language pathologist to practice audiology or speech-  
5 language pathology, under a privilege to practice, in each member state.
- 6 B. A state must implement or utilize procedures for considering the criminal history  
7 records of applicants for initial privilege to practice. These procedures shall include  
8 the submission of fingerprints or other biometric-based information by applicants  
9 for the purpose of obtaining an applicant's criminal history record information from  
10 the Federal Bureau of Investigation and the agency responsible for retaining that  
11 state's criminal records.
- 12 1. A member state must fully implement a criminal background check  
13 requirement, within a time frame established by rule, by receiving the results  
14 of the Federal Bureau of Investigation record search on criminal background  
15 checks and use the results in making licensure decisions.
- 16 2. Communication between a member state, the Commission and among  
17 member states regarding the verification of eligibility for licensure through  
18 the Compact shall not include any information received from the Federal  
19 Bureau of Investigation relating to a federal criminal records check performed  
20 by a member state under Public Law 92-544.
- 21 C. Upon application for a privilege to practice, the licensing board in the issuing  
22 remote state shall ascertain, through the data system, whether the applicant has ever  
23 held, or is the holder of, a license issued by any other state, whether there are any  
24 encumbrances on any license or privilege to practice held by the applicant, whether  
25 any adverse action has been taken against any license or privilege to practice held  
26 by the applicant.
- 27 D. Each member state shall require an applicant to obtain or retain a license in the

1 home state and meet the home state's qualifications for licensure or renewal of  
2 licensure, as well as, all other applicable state laws.

3 E. For an audiologist:

4 1. Must meet one (1) of the following educational requirements:

5 a. On or before, December 31, 2007, has graduated with a master's degree  
6 or doctorate in audiology, or equivalent degree regardless of degree  
7 name, from a program that is accredited by an accrediting agency  
8 recognized by the Council for Higher Education Accreditation, or its  
9 successor, or by the United States Department of Education and  
10 operated by a college or university accredited by a regional or national  
11 accrediting organization recognized by the board;

12 b. On or after, January 1, 2008, has graduated with a Doctoral degree in  
13 audiology, or equivalent degree, regardless of degree name, from a  
14 program that is accredited by an accrediting agency recognized by the  
15 Council for Higher Education Accreditation, or its successor, or by the  
16 United States Department of Education and operated by a college or  
17 university accredited by a regional or national accrediting organization  
18 recognized by the board; or

19 c. Has graduated from an audiology program that is housed in an  
20 institution of higher education outside of the United States (a) for which  
21 the program and institution have been approved by the authorized  
22 accrediting body in the applicable country and (b) the degree program  
23 has been verified by an independent credentials review agency to be  
24 comparable to a state licensing board-approved program;

25 2. Has completed a supervised clinical practicum experience from an accredited  
26 educational institution or its cooperating programs as required by the  
27 Commission;

- 1       3. Has successfully passed a national examination approved by the Commission;
- 2       4. Holds an active, unencumbered license;
- 3       5. Has not been convicted or found guilty, and has not entered into an agreed
- 4             disposition, of a felony related to the practice of audiology, under applicable
- 5             state or federal criminal law; and
- 6       6. Has a valid United States Social Security or National Practitioner
- 7             Identification number.
- 8 F. For a speech-language pathologist:
  - 9       1. Must meet one (1) of the following educational requirements:
    - 10       a. Has graduated with a master's degree from a speech-language pathology
    - 11             program that is accredited by an organization recognized by the United
    - 12             States Department of Education and operated by a college or university
    - 13             accredited by a regional or national accrediting organization recognized
    - 14             by the board; or
    - 15       b. Has graduated from a speech-language pathology program that is
    - 16             housed in an institution of higher education outside of the United States
    - 17             (a) for which the program and institution have been approved by the
    - 18             authorized accrediting body in the applicable country and (b) the degree
    - 19             program has been verified by an independent credentials review agency
    - 20             to be comparable to a state licensing board-approved program;
  - 21       2. Has completed a supervised clinical practicum experience from an
  - 22             educational institution or its cooperating programs as required by the
  - 23             Commission;
  - 24       3. Has completed a supervised postgraduate professional experience as required
  - 25             by the Commission;
  - 26       4. Has successfully passed a national examination approved by the Commission;
  - 27       5. Holds an active, unencumbered license;

- 1           6. Has not been convicted or found guilty, and has not entered into an agreed  
2           disposition, of a felony related to the practice of speech-language pathology,  
3           under applicable state or federal criminal law; and
- 4           7. Has a valid United States Social Security or National Practitioner  
5           Identification number.
- 6    G. The privilege to practice is derived from the home state license.
- 7    H. An audiologist or speech-language pathologist practicing in a member state must  
8           comply with the state practice laws of the state in which the client is located at the  
9           time service is provided. The practice of audiology and speech-language pathology  
10           shall include all audiology and speech-language pathology practice as defined by  
11           the state practice laws of the member state in which the client is located. The  
12           practice of audiology and speech-language pathology in a member state under a  
13           privilege to practice shall subject an audiologist or speech-language pathologist to  
14           the jurisdiction of the licensing board, the courts and the laws of the member state  
15           in which the client is located at the time service is provided.
- 16   I. Individuals not residing in a member state shall continue to be able to apply for a  
17           member state's single-state license as provided under the laws of each member  
18           state. However, the single-state license granted to these individuals shall not be  
19           recognized as granting the privilege to practice audiology or speech-language  
20           pathology in any other member state. Nothing in this Compact shall affect the  
21           requirements established by a member state for the issuance of a single-state  
22           license.
- 23   J. Member states may charge a fee for granting a compact privilege.
- 24   K. Member states must comply with the bylaws and rules and regulations of the  
25           Commission.

26   SECTION 4: COMPACT PRIVILEGE

- 27   A. To exercise the compact privilege under the terms and provisions of the Compact,

- 1 the audiologist or speech-language pathologist shall:
- 2 1. Hold an active license in the home state;
  - 3 2. Have no encumbrance on any state license;
  - 4 3. Be eligible for a compact privilege in any member state in accordance with
  - 5 Section 3;
  - 6 4. Have not had any adverse action against any license or compact privilege
  - 7 within the previous two (2) years from date of application;
  - 8 5. Notify the Commission that the licensee is seeking the compact privilege
  - 9 within a remote state(s);
  - 10 6. Pay any applicable fees, including any state fee, for the compact privilege;
  - 11 and
  - 12 7. Report to the Commission adverse action taken by any non-member state
  - 13 within thirty (30) days from the date the adverse action is taken.
- 14 B. For the purposes of the compact privilege, an audiologist or speech-language
- 15 pathologist shall only hold one (1) home state license at a time.
- 16 C. Except as provided in Section 6, if an audiologist or speech-language pathologist
- 17 changes primary state of residence by moving between two-member states, the
- 18 audiologist or speech-language pathologist must apply for licensure in the new
- 19 home state, and the license issued by the prior home state shall be deactivated in
- 20 accordance with applicable rules adopted by the Commission.
- 21 D. The audiologist or speech-language pathologist may apply for licensure in advance
- 22 of a change in primary state of residence.
- 23 E. A license shall not be issued by the new home state until the audiologist or speech-
- 24 language pathologist provides satisfactory evidence of a change in primary state of
- 25 residence to the new home state and satisfies all applicable requirements to obtain a
- 26 license from the new home state.
- 27 F. If an audiologist or speech-language pathologist changes primary state of residence

1 by moving from a member state to a non-member state, the license issued by the  
2 prior home state shall convert to a single-state license, valid only in the former  
3 home state and the privilege to practice in any member state is deactivated in  
4 accordance with the rules promulgated by the Commission.

5 G. The compact privilege is valid until the expiration date of the home state license.  
6 The licensee must comply with the requirements of Section 4A to maintain the  
7 compact privilege in the remote state.

8 H. A licensee providing audiology or speech-language pathology services in a remote  
9 state under the compact privilege shall function within the laws and regulations of  
10 the remote state.

11 I. A licensee providing audiology or speech-language pathology services in a remote  
12 state is subject to that state's regulatory authority. A remote state may, in  
13 accordance with due process and that state's laws, remove a licensee's compact  
14 privilege in the remote state for a specific period of time, impose fines, and/or take  
15 any other necessary actions to protect the health and safety of its citizens.

16 J. If a home state license is encumbered, the licensee shall lose the compact privilege  
17 in any remote state until the following occur:

- 18 1. The home state license is no longer encumbered; and
- 19 2. Two (2) years have elapsed from the date of the adverse action.

20 K. Once an encumbered license in the home state is restored to good standing, the  
21 licensee must meet the requirements of Section 4A to obtain a compact privilege in  
22 any remote state.

23 L. Once the requirements of Section 4J have been met, the licensee must meet the  
24 requirements in Section 4A to obtain a compact privilege in a remote state.

## 25 SECTION 5: COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

26 Member states shall recognize the right of an audiologist or speech-language pathologist,  
27 licensed by a home state in accordance with Section 3 and under rules promulgated by

1 the Commission, to practice audiology or speech-language pathology in any member  
2 state via telehealth under a privilege to practice as provided in the Compact and rules  
3 promulgated by the Commission. A licensee providing audiology or speech-language  
4 pathology services in a remote state under the compact privilege shall function within the  
5 laws and regulations of the state where the patient/client/student is located.

#### 6 SECTION 6: ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

7 Active duty military personnel, or their spouse, shall designate a home state where the  
8 individual has a current license in good standing. The individual may retain the home  
9 state designation during the period the service member is on active duty. Subsequent to  
10 designating a home state, the individual shall only change their home state through  
11 application for licensure in the new state.

#### 12 SECTION 7: ADVERSE ACTIONS

13 A. In addition to the other powers conferred by state law, a remote state shall have the  
14 authority, in accordance with existing state due process law, to:

- 15 1. Take adverse action against an audiologist's or speech-language pathologist's  
16 privilege to practice within that member state.
- 17 2. Issue subpoenas for both hearings and investigations that require the  
18 attendance and testimony of witnesses as well as the production of evidence.  
19 Subpoenas issued by a licensing board in a member state for the attendance  
20 and testimony of witnesses or the production of evidence from another  
21 member state shall be enforced in the latter state by any court of competent  
22 jurisdiction, according to the practice and procedure of that court applicable to  
23 subpoenas issued in proceedings pending before it. The issuing authority shall  
24 pay any witness fees, travel expenses, mileage and other fees required by the  
25 service statutes of the state in which the witnesses or evidence are located.
- 26 3. Only the home state shall have the power to take adverse action against a  
27 audiologist's or speech-language pathologist's license issued by the home



1 state.

2 B. For purposes of taking adverse action, the home state shall give the same priority  
3 and effect to reported conduct received from a member state as it would if the  
4 conduct had occurred within the home state. In so doing, the home state shall apply  
5 its own state laws to determine appropriate action.

6 C. The home state shall complete any pending investigations of an audiologist or  
7 speech-language pathologist who changes primary state of residence during the  
8 course of the investigations. The home state shall also have the authority to take  
9 appropriate action(s) and shall promptly report the conclusions of the investigations  
10 to the administrator of the data system. The administrator of the data system shall  
11 promptly notify the new home state of any adverse actions.

12 D. If otherwise permitted by state law, the member state may recover from the affected  
13 audiologist or speech-language pathologist the costs of investigations and  
14 disposition of cases resulting from any adverse action taken against that audiologist  
15 or speech-language pathologist.

16 E. The member state may take adverse action based on the factual findings of the  
17 remote state, provided that the member state follows the member state's own  
18 procedures for taking the adverse action.

19 F. Joint Investigations

20 1. In addition to the authority granted to a member state by its respective  
21 audiology or speech-language pathology practice act or other applicable state  
22 law, any member state may participate with other member states in joint  
23 investigations of licensees.

24 2. Member states shall share any investigative, litigation, or compliance  
25 materials in furtherance of any joint or individual investigation initiated under  
26 the Compact.

27 G. If adverse action is taken by the home state against an audiologist's or speech

1 language pathologist's license, the audiologist's or speech-language pathologist's  
2 privilege to practice in all other member states shall be deactivated until all  
3 encumbrances have been removed from the state license. All home state  
4 disciplinary orders that impose adverse action against an audiologist's or speech  
5 language pathologist's license shall include a statement that the audiologist's or  
6 speech-language pathologist's privilege to practice is deactivated in all member  
7 states during the pendency of the order.

8 H. If a member state takes adverse action against a licensee, it shall promptly notify  
9 the administrator of the data system. The administrator of the data system shall  
10 promptly notify the home state and any remote states in which the licensee has a  
11 privilege to practice of any adverse actions by the home state or remote states.

12 I. Nothing in this Compact shall override a member state's decision that participation  
13 in an alternative program may be used in lieu of adverse action.

14 SECTION 8: ESTABLISHMENT OF THE AUDIOLOGY AND SPEECH-LANGUAGE  
15 PATHOLOGY COMPACT COMMISSION

16 A. The Compact member states hereby create and establish a joint public agency  
17 known as the Audiology and Speech-Language Pathology Compact Commission:

18 1. The Commission is an instrumentality of the Compact states.

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

24 3. Nothing in this Compact shall be construed to be a waiver of sovereign  
25 immunity.

26 B. Membership, Voting and Meetings

27 1. Each member state shall have two (2) delegates selected by that member

- 1 state's licensing board. The delegates shall be current members of the  
2 licensing board. One (1) shall be an audiologist and one (1) shall be a speech-  
3 language pathologist.
- 4 2. An additional five (5) delegates, who are either a public member or board  
5 administrator from a state licensing board, shall be chosen by the Executive  
6 Committee from a pool of nominees provided by the Commission at Large.
- 7 3. Any delegate may be removed or suspended from office as provided by the  
8 law of the state from which the delegate is appointed.
- 9 4. The member state board shall fill any vacancy occurring on the Commission,  
10 within ninety (90) days.
- 11 5. Each delegate shall be entitled to one (1) vote with regard to the promulgation  
12 of rules and creation of bylaws and shall otherwise have an opportunity to  
13 participate in the business and affairs of the Commission.
- 14 6. A delegate shall vote in person or by other means as provided in the bylaws.  
15 The bylaws may provide for delegates' participation in meetings by telephone  
16 or other means of communication.
- 17 7. The Commission shall meet at least once during each calendar year.  
18 Additional meetings shall be held as set forth in the bylaws.
- 19 C. The Commission shall have the following powers and duties:
- 20 1. Establish the fiscal year of the Commission;
- 21 2. Establish bylaws;
- 22 3. Establish a Code of Ethics;
- 23 4. Maintain its financial records in accordance with the bylaws;
- 24 5. Meet and take actions as are consistent with the provisions of this Compact  
25 and the bylaws;
- 26 6. Promulgate uniform rules to facilitate and coordinate implementation and  
27 administration of this Compact. The rules shall have the force and effect of

- 1 law and shall be binding in all member states to the extent and in the manner  
2 provided for in the Compact;
- 3 7. Bring and prosecute legal proceedings or actions in the name of the  
4 Commission, provided that the standing of any state audiology or speech-  
5 language pathology licensing board to sue or be sued under applicable law  
6 shall not be affected;
- 7 8. Purchase and maintain insurance and bonds;
- 8 9. Borrow, accept, or contract for services of personnel, including, but not  
9 limited to, employees of a member state;
- 10 10. Hire employees, elect or appoint officers, fix compensation, define duties,  
11 grant individuals appropriate authority to carry out the purposes of the  
12 Compact, and to establish the Commission's personnel policies and programs  
13 relating to conflicts of interest, qualifications of personnel, and other related  
14 personnel matters;
- 15 11. Accept any and all appropriate donations and grants of money, equipment,  
16 supplies, materials and services, and to receive, utilize and dispose of the  
17 same; provided that at all times the Commission shall avoid any appearance of  
18 impropriety and/or conflict of interest;
- 19 12. Lease, purchase, accept appropriate gifts or donations of, or otherwise to own,  
20 hold, improve or use, any property, real, personal or mixed; provided that at  
21 all times the Commission shall avoid any appearance of impropriety;
- 22 13. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise  
23 dispose of any property real, personal, or mixed;
- 24 14. Establish a budget and make expenditures;
- 25 15. Borrow money;
- 26 16. Appoint committees, including standing committees composed of members,  
27 and other interested persons as may be designated in this Compact and the

1 bylaws;

2 17. Provide and receive information from, and cooperate with, law enforcement  
3 agencies;

4 18. Establish and elect an Executive Committee; and

5 19. Perform other functions as may be necessary or appropriate to achieve the  
6 purposes of this Compact consistent with the state regulation of audiology and  
7 speech-language pathology licensure and practice.

8 D. The Commission shall have no authority to change or modify the laws of the  
9 member states which define the practice of audiology and speech-language  
10 pathology in the respective states.

11 E. The Executive Committee

12 The Executive Committee shall have the power to act on behalf of the Commission,  
13 within the powers of the Commission, according to the terms of this Compact:

14 1. The Executive Committee shall be composed of ten (10) members:

15 a. Seven (7) voting members who are elected by the Commission from the  
16 current membership of the Commission;

17 b. Two (2) ex officios, consisting of one (1) nonvoting member from a  
18 recognized national audiology professional association and one (1)  
19 nonvoting member from a recognized national speech-language  
20 pathology association; and

21 c. One (1) ex officio, nonvoting member from the recognized membership  
22 organization of the audiology and speech-language pathology licensing  
23 boards.

24 F. The ex officio members shall be selected by their respective organizations.

25 1. The Commission may remove any member of the Executive Committee as  
26 provided in bylaws.

27 2. The Executive Committee shall meet at least annually.

- 1           3.    The Executive Committee shall have the following duties and responsibilities:
- 2                a.    Recommend to the entire Commission changes to the rules or bylaws,
- 3                    changes to this Compact legislation, fees paid by Compact member
- 4                    states such as annual dues, and any commission Compact fee charged to
- 5                    licensees for the compact privilege;
- 6                b.    Ensure Compact administration services are appropriately provided,
- 7                    contractual or otherwise;
- 8                c.    Prepare and recommend the budget;
- 9                d.    Maintain financial records on behalf of the Commission;
- 10              e.    Monitor Compact compliance of member states and provide compliance
- 11                  reports to the Commission;
- 12              f.    Establish additional committees as necessary; and
- 13              g.    Other duties as provided in rules or bylaws.
- 14           4.    Meetings of the Commission or Executive Committee
- 15                All meetings shall be open to the public, and public notice of meetings shall
- 16                be given in the same manner as required under the rulemaking provisions in
- 17                Section 10.
- 18           5.    The Commission or the Executive Committee or other committees of the
- 19                Commission may convene in a closed, non-public meeting if the Commission
- 20                or Executive Committee or other committees of the Commission must
- 21                discuss:
- 22                a.    Non-compliance of a member state with its obligations under the
- 23                    Compact;
- 24                b.    The employment, compensation, discipline or other matters, practices or
- 25                    procedures related to specific employees or other matters related to the
- 26                    Commission's internal personnel practices and procedures;
- 27                c.    Current, threatened, or reasonably anticipated litigation;

- 1           d. Negotiation of contracts for the purchase, lease, or sale of goods,  
2           services, or real estate;
- 3           e. Accusing any person of a crime or formally censuring any person;
- 4           f. Disclosure of trade secrets or commercial or financial information that is  
5           privileged or confidential;
- 6           g. Disclosure of information of a personal nature where disclosure would  
7           constitute a clearly unwarranted invasion of personal privacy;
- 8           h. Disclosure of investigative records compiled for law enforcement  
9           purposes;
- 10          i. Disclosure of information related to any investigative reports prepared  
11          by or on behalf of or for use of the Commission or other committee  
12          charged with responsibility of investigation or determination of  
13          compliance issues pursuant to the Compact; or
- 14          j. Matters specifically exempted from disclosure by federal or member  
15          state statute.
- 16          6. If a meeting, or portion of a meeting, is closed pursuant to this provision, the  
17          Commission's legal counsel or designee shall certify that the meeting may be  
18          closed and shall reference each relevant exempting provision.
- 19          7. The Commission shall keep minutes that fully and clearly describe all matters  
20          discussed in a meeting and shall provide a full and accurate summary of  
21          actions taken, and the reasons therefor, including a description of the views  
22          expressed. All documents considered in connection with an action shall be  
23          identified in minutes. All minutes and documents of meetings other than  
24          closed meetings shall be made available to members of the public upon  
25          request at the requesting person's expense. All minutes and documents of a  
26          closed meeting shall remain under seal, subject to release by a majority vote  
27          of the Commission or order of a court of competent jurisdiction.

- 1           8.    Financing of the Commission
- 2           a.    The Commission shall pay, or provide for the payment of, the
- 3                 reasonable expenses of its establishment, organization, and ongoing
- 4                 activities.
- 5           b.    The Commission may accept any and all appropriate revenue sources,
- 6                 donations, and grants of money, equipment, supplies, materials, and
- 7                 services.
- 8           c.    The Commission may levy on and collect an annual assessment from
- 9                 each member state or impose fees on other parties to cover the cost of
- 10                the operations and activities of the Commission and its staff, which must
- 11                be in a total amount sufficient to cover its annual budget as approved
- 12                each year for which revenue is not provided by other sources. The
- 13                aggregate annual assessment amount shall be allocated based upon a
- 14                formula to be determined by the Commission, which shall promulgate a
- 15                rule binding upon all member states.
- 16          9.    The Commission shall not incur obligations of any kind prior to securing the
- 17                funds adequate to meet the same; nor shall the Commission pledge the credit
- 18                of any of the member states, except by and with the authority of the member
- 19                state.
- 20          10. The Commission shall keep accurate accounts of all receipts and
- 21                disbursements. The receipts and disbursements of the Commission shall be
- 22                subject to the audit and accounting procedures established under its bylaws.
- 23                However, all receipts and disbursements of funds handled by the Commission
- 24                shall be audited yearly by a certified or licensed public accountant, and the
- 25                report of the audit shall be included in and become part of the annual report of
- 26                the Commission.

27    G.    Qualified Immunity, Defense, and Indemnification



- 1           1.    The members, officers, executive director, employees and representatives of  
2           the Commission shall be immune from suit and liability, either personally or  
3           in their official capacity, for any claim for damage to or loss of property or  
4           personal injury or other civil liability caused by or arising out of any actual or  
5           alleged act, error or omission that occurred, or that the person against whom  
6           the claim is made had a reasonable basis for believing occurred within the  
7           scope of Commission employment, duties or responsibilities; provided that  
8           nothing in this paragraph shall be construed to protect any person from suit  
9           and/or liability for any damage, loss, injury, or liability caused by the  
10          intentional or willful or wanton misconduct of that person.
- 11          2.    The Commission shall defend any member, officer, executive director,  
12          employee or representative of the Commission in any civil action seeking to  
13          impose liability arising out of any actual or alleged act, error, or omission that  
14          occurred within the scope of Commission employment, duties, or  
15          responsibilities, or that the person against whom the claim is made had a  
16          reasonable basis for believing occurred within the scope of Commission  
17          employment, duties, or responsibilities; provided that nothing herein shall be  
18          construed to prohibit that person from retaining his or her own counsel; and  
19          provided further, that the actual or alleged act, error, or omission did not result  
20          from that person's intentional or willful or wanton misconduct.
- 21          3.    The Commission shall indemnify and hold harmless any member, officer,  
22          executive director, employee, or representative of the Commission for the  
23          amount of any settlement or judgment obtained against that person arising out  
24          of any actual or alleged act, error or omission that occurred within the scope  
25          of Commission employment, duties, or responsibilities, or that person had a  
26          reasonable basis for believing occurred within the scope of Commission  
27          employment, duties, or responsibilities, provided that the actual or alleged act,

1 error, or omission did not result from the intentional or willful or wanton  
2 misconduct of that person.

3 SECTION 9: DATA SYSTEM

- 4 A. The Commission shall provide for the development, maintenance, and utilization of  
5 a coordinated database and reporting system containing licensure, adverse action,  
6 and investigative information on all licensed individuals in member states.
- 7 B. Notwithstanding any other provision of state law to the contrary, a member state  
8 shall submit a uniform data set to the data system on all individuals to whom this  
9 Compact is applicable as required by the rules of the Commission, including:
- 10 1. Identifying information;
  - 11 2. Licensure data;
  - 12 3. Adverse actions against a license or compact privilege;
  - 13 4. Non-confidential information related to alternative program participation;
  - 14 5. Any denial of application for licensure, and the reason(s) for denial; and
  - 15 6. Other information that may facilitate the administration of this Compact, as  
16 determined by the rules of the Commission.
- 17 C. Investigative information pertaining to a licensee in any member state shall only be  
18 available to other member states.
- 19 D. The Commission shall promptly notify all member states of any adverse action  
20 taken against a licensee or an individual applying for a license. Adverse action  
21 information pertaining to a licensee in any member state shall be available to any  
22 other member state.
- 23 E. Member states contributing information to the data system may designate  
24 information that may not be shared with the public without the express permission  
25 of the contributing state.
- 26 F. Any information submitted to the data system that is subsequently required to be  
27 expunged by the laws of the member state contributing the information shall be

1 removed from the data system.

2 SECTION 10: RULEMAKING

3 A. The Commission shall exercise its rulemaking powers pursuant to the criteria set  
4 forth in this Section and the rules adopted thereunder. Rules and amendments shall  
5 become binding as of the date specified in each rule or amendment.

6 B. If a majority of the legislatures of the member states rejects a rule, by enactment of  
7 a statute or resolution in the same manner used to adopt the Compact within four  
8 (4) years of the date of adoption of the rule, the rule shall have no further force and  
9 effect in any member state.

10 C. Rules or amendments to the rules shall be adopted at a regular or special meeting of  
11 the Commission.

12 D. Prior to promulgation and adoption of a final rule or rules by the Commission, and  
13 at least thirty (30) days in advance of the meeting at which the rule shall be  
14 considered and voted upon, the Commission shall file a Notice of Proposed  
15 Rulemaking:

16 1 On the website of the Commission or other publicly accessible platform; and

17 2. On the website of each member state audiology or speech-language pathology  
18 licensing board or other publicly accessible platform or the publication in  
19 which each state would otherwise publish proposed rules.

20 E. The Notice of Proposed Rulemaking shall include:

21 1. The proposed time, date, and location of the meeting in which the rule shall be  
22 considered and voted upon;

23 2. The text of the proposed rule or amendment and the reason for the proposed  
24 rule;

25 3. A request for comments on the proposed rule from any interested person; and

26 4. The manner in which interested persons may submit notice to the Commission  
27 of their intention to attend the public hearing and any written comments.

- 1 F. Prior to the adoption of a proposed rule, the Commission shall allow persons to  
2 submit written data, facts, opinions and arguments, which shall be made available  
3 to the public.
- 4 G. The Commission shall grant an opportunity for a public hearing before it adopts a  
5 rule or amendment if a hearing is requested by:
- 6 1. At least twenty-five (25) persons;
  - 7 2. A state or federal governmental subdivision or agency; or
  - 8 3. An association having at least twenty-five (25) members.
- 9 H. If a hearing is held on the proposed rule or amendment, the Commission shall  
10 publish the place, time, and date of the scheduled public hearing. If the hearing is  
11 held via electronic means, the Commission shall publish the mechanism for access  
12 to the electronic hearing.
- 13 1. All persons wishing to be heard at the hearing shall notify the executive  
14 director of the Commission or other designated member in writing of their  
15 desire to appear and testify at the hearing not less than five (5) business days  
16 before the scheduled date of the hearing.
  - 17 2. Hearings shall be conducted in a manner providing each person who wishes to  
18 comment a fair and reasonable opportunity to comment orally or in writing.
  - 19 3. All hearings shall be recorded. A copy of the recording shall be made  
20 available to any person upon request and at the requesting person's expense.
  - 21 4. Nothing in this section shall be construed as requiring a separate hearing on  
22 each rule. Rules may be grouped for the convenience of the Commission at  
23 hearings required by this section.
- 24 I. Following the scheduled hearing date, or by the close of business on the scheduled  
25 hearing date if the hearing was not held, the Commission shall consider all written  
26 and oral comments received.
- 27 J. If no written notice of intent to attend the public hearing by interested parties is

1 received, the Commission may proceed with promulgation of the proposed rule  
2 without a public hearing.

3 K. The Commission shall, by majority vote of all members, take final action on the  
4 proposed rule and shall determine the effective date of the rule, if any, based on the  
5 rulemaking record and the full text of the rule.

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

13 1. Meet an imminent threat to public health, safety, or welfare;

14 2. Prevent a loss of Commission or member state funds; or

15 3. Meet a deadline for the promulgation of an administrative rule that is  
16 established by federal law or rule.

17 M. The Commission or an authorized committee of the Commission may direct  
18 revisions to a previously adopted rule or amendment for purposes of correcting  
19 typographical errors, errors in format, errors in consistency, or grammatical errors.  
20 Public notice of any revisions shall be posted on the website of the Commission.  
21 The revision shall be subject to challenge by any person for a period of thirty (30)  
22 days after posting. The revision may be challenged only on grounds that the  
23 revision results in a material change to a rule. A challenge shall be made in writing  
24 and delivered to the chair of the Commission prior to the end of the notice period. If  
25 no challenge is made, the revision shall take effect without further action. If the  
26 revision is challenged, the revision may not take effect without the approval of the  
27 Commission.

1 SECTION 11: OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

2 A. Dispute Resolution

3 1. Upon request by a member state, the Commission shall attempt to resolve  
4 disputes related to the Compact that arise among member states and between  
5 member and non-member states.

6 2. The Commission shall promulgate a rule providing for both mediation and  
7 binding dispute resolution for disputes as appropriate.

8 B. Enforcement

9 1. The Commission, in the reasonable exercise of its discretion, shall enforce the  
10 provisions and rules of this Compact.

11 2. By majority vote, the Commission may initiate legal action in the United  
12 States District Court for the District of Columbia or the federal district where  
13 the Commission has its principal offices against a member state in default to  
14 enforce compliance with the provisions of the Compact and its promulgated  
15 rules and bylaws. The relief sought may include both injunctive relief and  
16 damages. In the event judicial enforcement is necessary, the prevailing  
17 member shall be awarded all costs of litigation, including reasonable  
18 attorney's fees.

19 3. The remedies herein shall not be the exclusive remedies of the Commission.  
20 The Commission may pursue any other remedies available under federal or  
21 state law.

22 SECTION 12: DATE OF IMPLEMENTATION OF THE INTERSTATE  
23 COMMISSION FOR AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY  
24 PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

25 A. The Compact shall come into effect on the date on which the Compact statute is  
26 enacted into law in the 10th member state. The provisions, which become effective  
27 at that time, shall be limited to the powers granted to the Commission relating to

1 assembly and the promulgation of rules. Thereafter, the Commission shall meet and  
2 exercise rulemaking powers necessary to the implementation and administration of  
3 the Compact.

4 B. Any state that joins the Compact subsequent to the Commission's initial adoption of  
5 the rules shall be subject to the rules as they exist on the date on which the Compact  
6 becomes law in that state. Any rule that has been previously adopted by the  
7 Commission shall have the full force and effect of law on the day the Compact  
8 becomes law in that state.

9 C. Any member state may withdraw from this Compact by enacting a statute repealing  
10 the same.

11 1. A member state's withdrawal shall not take effect until six (6) months after  
12 enactment of the repealing statute.

13 2. Withdrawal shall not affect the continuing requirement of the withdrawing  
14 state's audiology or speech-language pathology licensing board to comply  
15 with the investigative and adverse action reporting requirements of this act  
16 prior to the effective date of withdrawal.

17 D. Nothing contained in this Compact shall be construed to invalidate or prevent any  
18 audiology or speech-language pathology licensure agreement or other cooperative  
19 arrangement between a member state and a non-member state that does not conflict  
20 with the provisions of this Compact.

21 E. This Compact may be amended by the member states. No amendment to this  
22 Compact shall become effective and binding upon any member state until it is  
23 enacted into the laws of all member states.

#### 24 SECTION 13: CONSTRUCTION AND SEVERABILITY

25 This Compact shall be liberally construed so as to effectuate the purposes thereof. The  
26 provisions of this Compact shall be severable and if any phrase, clause, sentence or  
27 provision of this Compact is declared to be contrary to the constitution of any member

1 state or of the United States or the applicability thereof to any government, agency,  
2 person or circumstance is held invalid, the validity of the remainder of this Compact and  
3 the applicability thereof to any government, agency, person or circumstance shall not be  
4 affected thereby. If this Compact shall be held contrary to the constitution of any member  
5 state, the Compact shall remain in full force and effect as to the remaining member states  
6 and in full force and effect as to the member state affected as to all severable matters.

#### 7 SECTION 14: BINDING EFFECT OF COMPACT AND OTHER LAWS

- 8 A. Nothing herein prevents the enforcement of any other law of a member state that is  
9 not inconsistent with the Compact.
- 10 B. All laws in a member state in conflict with the Compact are superseded to the  
11 extent of the conflict.
- 12 C. All lawful actions of the Commission, including all rules and bylaws promulgated  
13 by the Commission, are binding upon the member states.
- 14 D. All agreements between the Commission and the member states are binding in  
15 accordance with their terms.
- 16 E. In the event any provision of the Compact exceeds the constitutional limits imposed  
17 on the legislature of any member state, the provision shall be ineffective to the  
18 extent of the conflict with the constitutional provision in question in that member  
19 state.

#### 20 SECTION 15: APPLICABILITY TO KENTUCKY STATE GOVERNMENT

21 In order to clarify the effect of certain provisions of this Compact and to ensure that the  
22 rights and responsibilities of the various branches of government are maintained, the  
23 following shall be in effect in this state:

- 24 A. By entering into this Compact, this state authorizes the licensing board as defined in  
25 Section 2.G. of this Compact and as created by KRS Chapter 334A to implement  
26 the provisions of this Compact.
- 27 B. Notwithstanding any provision of this Compact to the contrary:



- 1           1.    When a rule is adopted pursuant to Section 10 of this Compact, the licensing  
2           board of this state as defined by Section 2.G. of this Compact shall have sixty  
3           (60) days to review the rule for the purpose of filing the rule as an emergency  
4           administrative regulation pursuant to KRS 13A.190 and for filing the rule as  
5           an accompanying ordinary administrative regulation, following the  
6           requirements of KRS Chapter 13A. Failure by the licensing board of this state  
7           as defined by Section 2.G. of this Compact to promulgate a rule adopted by  
8           the Audiology and Speech-Language Pathology Compact Commission as an  
9           administrative regulation pursuant to KRS Chapter 13A shall result in the  
10          initiation of the process for withdrawal as set forth in Section 12 of this  
11          Compact. Nothing in these provisions shall negate the applicability and effect  
12          of Section 10 of this Compact to this state.
- 13          2.    If the proposed administrative regulation is found deficient and the deficiency  
14          is not resolved pursuant to KRS 13A.330 or 13A.335 or Section 6 of this Act,  
15          the provisions of Section 11 of this Compact shall apply. If the procedures  
16          under Section 11 of this Compact fail to resolve an issue, the provisions of  
17          Section 12 of this Compact shall apply.
- 18          3.    If the Audiology and Speech-Language Pathology Compact Commission  
19          created by Section 8 of this Compact exercises its rulemaking authority in a  
20          manner that is beyond the scope of the purposes of this Compact, or the  
21          powers granted under this Compact, then such an action by the commission  
22          shall be invalid and have no force or effect.
- 23          C.    Section 8.F.8. of this Compact pertaining to the financing of the commission shall  
24          not be interpreted to obligate the general fund of this state. Any funds used to  
25          finance this Compact shall be from money collected pursuant to KRS 334A.120.
- 26          D.    This Compact shall apply only to those audiologists or speech-language  
27          pathologists who practice or work under a compact privilege.

1           ➔Section 16. KRS 335.560 is amended to read as follows:

2   SECTION 1. PURPOSE

3   The purpose of this Compact is to facilitate interstate practice of Licensed Professional  
4   Counselors with the goal of improving public access to Professional Counseling services.

5   The practice of Professional Counseling occurs in the State where the client is located at  
6   the time of the counseling services. The Compact preserves the regulatory authority of  
7   States to protect public health and safety through the current system of State licensure.

8   This Compact is designed to achieve the following objectives:

- 9   A.   Increase public access to Professional Counseling services by providing for the  
10       mutual recognition of other Member State licenses;
- 11   B.   Enhance the States' ability to protect the public's health and safety;
- 12   C.   Encourage the cooperation of Member States in regulating multistate practice for  
13       Licensed Professional Counselors;
- 14   D.   Support spouses of relocating Active Duty Military personnel;
- 15   E.   Enhance the exchange of licensure, investigative, and disciplinary information  
16       among Member States;
- 17   F.   Allow for the use of Telehealth technology to facilitate increased access to  
18       Professional Counseling services;
- 19   G.   Support the uniformity of Professional Counseling licensure requirements  
20       throughout the States to promote public safety and public health benefits;
- 21   H.   Invest all Member States with the authority to hold a Licensed Professional  
22       Counselor accountable for meeting all State practice laws in the State in which the  
23       client is located at the time care is rendered through the mutual recognition of  
24       Member State licenses;
- 25   I.   Eliminate the necessity for licenses in multiple States; and
- 26   J.   Provide opportunities for interstate practice by Licensed Professional Counselors  
27       who meet uniform licensure requirements.

1 SECTION 2. DEFINITIONS

2 As used in this Compact, and except as otherwise provided, the following definitions  
3 shall apply:

- 4 A. "Active Duty Military" means full-time duty status in the active uniformed service  
5 of the United States, including members of the National Guard and Reserve on  
6 active duty orders pursuant to 10 U.S.C. Chapters 1209 and 1211;
- 7 B. "Adverse Action" means any administrative, civil, equitable, or criminal action  
8 permitted by a State's laws which is imposed by a licensing board or other authority  
9 against a Licensed Professional Counselor, including actions against an individual's  
10 license or Privilege to Practice such as revocation, suspension, probation,  
11 monitoring of the licensee, limitation on the licensee's practice, or any other  
12 Encumbrance on licensure affecting a Licensed Professional Counselor's  
13 authorization to practice, including issuance of a cease and desist action;
- 14 C. "Alternative Program" means a non-disciplinary monitoring or practice remediation  
15 process approved by a Professional Counseling Licensing Board to address  
16 Impaired Practitioners;
- 17 D. "Continuing Competence/Education" means a requirement, as a condition of license  
18 renewal, to provide evidence of participation in, and/or completion of, educational  
19 and professional activities relevant to practice or area of work;
- 20 E. "Counseling Compact Commission" or "Commission" means the national  
21 administrative body whose membership consists of all States that have enacted the  
22 Compact;
- 23 F. "Current Significant Investigative Information" means:
- 24 1. Investigative Information that a Licensing Board, after a preliminary inquiry  
25 that includes notification and an opportunity for the Licensed Professional  
26 Counselor to respond, if required by State law, has reason to believe is not  
27 groundless and, if proved true, would indicate more than a minor infraction;

- 1           or
- 2           2. Investigative Information that indicates that the Licensed Professional
- 3           Counselor represents an immediate threat to public health and safety
- 4           regardless of whether the Licensed Professional Counselor has been notified
- 5           and had an opportunity to respond;
- 6   G. "Data System" means a repository of information about licensees, including but not
- 7           limited to continuing education, examination, licensure, investigative, Privilege to
- 8           Practice, and Adverse Action information;
- 9   H. "Encumbered License" means a license in which an Adverse Action restricts the
- 10           practice of licensed Professional Counseling by the Licensee and said Adverse
- 11           Action has been reported to the National Practitioners Data Bank (NPDB);
- 12   I. "Encumbrance" means a revocation or suspension of, or any limitation on, the full
- 13           and unrestricted practice of Licensed Professional Counseling by a Licensing
- 14           Board;
- 15   J. "Executive Committee" means a group of directors elected or appointed to act on
- 16           behalf of, and within the powers granted to them by, the Commission;
- 17   K. "Home State" means the Member State that is the Licensee's primary State of
- 18           residence;
- 19   L. "Impaired Practitioner" means an individual who has a condition(s) that may impair
- 20           their ability to practice as a Licensed Professional Counselor without some type of
- 21           intervention and may include, but are not limited to, alcohol and drug dependence,
- 22           mental health impairment, and neurological or physical impairments;
- 23   M. "Investigative Information" means information, records, and documents received or
- 24           generated by a Professional Counseling Licensing Board pursuant to an
- 25           investigation;
- 26   N. "Jurisprudence Requirement" if required by a Member State, means the assessment
- 27           of an individual's knowledge of the laws and Rules governing the practice of

- 1 Professional Counseling in a State;
- 2 O. "Licensed Professional Counselor" means a counselor licensed by a Member State  
3 regardless of the title used by that State, to independently assess, diagnose, and treat  
4 behavioral health conditions;
- 5 P. "Licensee" means an individual who currently holds an authorization from the State  
6 to practice as a Licensed Professional Counselor;
- 7 Q. "Licensing Board" means the agency of a State, or equivalent, that is responsible  
8 for the licensing and regulation of Licensed Professional Counselors;
- 9 R. "Member State" means a State that has enacted the Compact;
- 10 S. "Privilege to Practice" means a legal authorization, which is equivalent to a license,  
11 permitting the practice of Professional Counseling in a Remote State;
- 12 T. "Professional Counseling" means the assessment, diagnosis, and treatment of  
13 behavioral health conditions by a Licensed Professional Counselor;
- 14 U. "Remote State" means a Member State other than the Home State, where a Licensee  
15 is exercising or seeking to exercise the Privilege to Practice;
- 16 V. "Rule" means a regulation promulgated by the Commission that has the force of  
17 law;
- 18 W. "Single State License" means a Licensed Professional Counselor license issued by a  
19 Member State that authorizes practice only within the issuing State and does not  
20 include a Privilege to Practice in any other Member State;
- 21 X. "State" means any state, commonwealth, district, or territory of the United States of  
22 America that regulates the practice of Professional Counseling;
- 23 Y. "Telehealth" means the application of telecommunication technology to deliver  
24 Professional Counseling services remotely to assess, diagnose, and treat behavioral  
25 health conditions;
- 26 Z. "Unencumbered License" means a license that authorizes a Licensed Professional  
27 Counselor to engage in the full and unrestricted practice of Professional

1 Counseling.

2 SECTION 3. STATE PARTICIPATION IN THE COMPACT

3 A. To Participate in the Compact, a State must currently:

- 4 1. License and regulate Licensed Professional Counselors;
- 5 2. Require Licensees to pass a nationally recognized exam approved by the  
6 Commission;
- 7 3. Require Licensees to have a sixty (60) semester-hour (or ninety (90) quarter-  
8 hour) master's degree in counseling or sixty (60) semester-hours (or ninety  
9 (90) quarter-hours) of graduate course work including the following topic  
10 areas:
  - 11 a. Professional Counseling Orientation and Ethical Practice;
  - 12 b. Social and Cultural Diversity;
  - 13 c. Human Growth and Development;
  - 14 d. Career Development;
  - 15 e. Counseling and Helping Relationships;
  - 16 f. Group Counseling and Group Work;
  - 17 g. Diagnosis and Treatment;
  - 18 h. Assessment and Testing;
  - 19 i. Research and Program Evaluation; and
  - 20 j. Other areas as determined by the Commission;
- 21 4. Require Licensees to complete a supervised postgraduate professional  
22 experience as defined by the Commission;
- 23 5. Have a mechanism in place for receiving and investigating complaints about  
24 Licensees.

25 B. A Member State shall:

- 26 1. Participate fully in the Commission's Data System, including using the  
27 Commission's unique identifier as defined in Rules;

- 1       2.   Notify the Commission, in compliance with the terms of the Compact and  
2           Rules, of any Adverse Action or the availability of Investigative Information  
3           regarding a Licensee;
- 4       3.   Implement or utilize procedures for considering the criminal history records  
5           of applicants for an initial Privilege to Practice. These procedures shall  
6           include the submission of fingerprints or other biometric-based information  
7           by applicants for the purpose of obtaining an applicant's criminal history  
8           record information from the Federal Bureau of Investigation and the agency  
9           responsible for retaining that State's criminal records;
  - 10       a.   A Member State must fully implement a criminal background check  
11           requirement, within a time frame established by rule, by receiving the  
12           results of the Federal Bureau of Investigation record search and shall use  
13           the results in making licensure decisions.
  - 14       b.   Communication between a Member State, the Commission, and among  
15           Member States regarding the verification of eligibility for licensure  
16           through the Compact shall not include any information received from  
17           the Federal Bureau of Investigation relating to a federal criminal records  
18           check performed by a Member State under Pub. L. No. 92-544;
- 19       4.   Comply with the Rules of the Commission;
- 20       5.   Require an applicant to obtain or retain a license in the Home State and meet  
21           the Home State's qualifications for licensure or renewal of licensure, as well  
22           as all other applicable State laws;
- 23       6.   Grant the Privilege to Practice to a Licensee holding a valid Unencumbered  
24           License in another Member State in accordance with the terms of the Compact  
25           and Rules; and
- 26       7.   Provide for the attendance of the State's commissioner to the Counseling  
27           Compact Commission meetings.

- 1 C. Member States may charge a fee for granting the Privilege to Practice.
- 2 D. Individuals not residing in a Member State shall continue to be able to apply for a  
3 Member State's Single State License as provided under the laws of each Member  
4 State. However, the Single State License granted to these individuals shall not be  
5 recognized as granting a Privilege to Practice Professional Counseling in any other  
6 Member State.
- 7 E. Nothing in this Compact shall affect the requirements established by a Member  
8 State for the issuance of a Single State License.
- 9 F. A license issued to a Licensed Professional Counselor by a Home State to a resident  
10 in that State shall be recognized by each Member State as authorizing a Licensed  
11 Professional Counselor to practice Professional Counseling, under a Privilege to  
12 Practice, in each Member State.

13 SECTION 4. PRIVILEGE TO PRACTICE

- 14 A. To exercise the Privilege to Practice under the terms and provisions of the Compact,  
15 the Licensee shall:
- 16 1. Hold a license in the Home State;
  - 17 2. Have a valid United States Social Security Number or National Practitioner  
18 Identifier;
  - 19 3. Be eligible for a Privilege to Practice in any Member State in accordance with  
20 Section 4(D), (G) and (H);
  - 21 4. Have not had any Encumbrance or restriction against any license or Privilege  
22 to Practice within the previous two (2) years;
  - 23 5. Notify the Commission that the Licensee is seeking the Privilege to Practice  
24 within a Remote State(s);
  - 25 6. Pay any applicable fees, including any State fee, for the Privilege to Practice;
  - 26 7. Meet any Continuing Competence/Education requirements established by the  
27 Home State;



- 1           8. Meet any Jurisprudence Requirements established by the Remote State(s) in  
2           which the Licensee is seeking a Privilege to Practice; and
- 3           9. Report to the Commission any Adverse Action, Encumbrance, or restriction  
4           on license taken by any non-Member State within thirty (30) days from the  
5           date the action is taken.
- 6    B. The Privilege to Practice is valid until the expiration date of the Home State license.  
7           The Licensee must comply with the requirements of Section 4(A) to maintain the  
8           Privilege to Practice in the Remote State.
- 9    C. A Licensee providing Professional Counseling in a Remote State under the  
10          Privilege to Practice shall adhere to the laws and regulations of the Remote State.
- 11   D. A Licensee providing Professional Counseling services in a Remote State is subject  
12          to that State's regulatory authority. A Remote State may, in accordance with due  
13          process and that State's laws, remove a Licensee's Privilege to Practice in the  
14          Remote State for a specific period of time, impose fines, and/or take any other  
15          necessary actions to protect the health and safety of its citizens. The Licensee may  
16          be ineligible for a Privilege to Practice in any Member State until the specific time  
17          for removal has passed and all fines are paid.
- 18   E. If a Home State license is encumbered, the Licensee shall lose the Privilege to  
19          Practice in any Remote State until the following occur:
- 20          1. The Home State license is no longer encumbered; and  
21          2. The Licensee has not had any Encumbrance or restriction against any license  
22          or Privilege to Practice within the previous two (2) years.
- 23   F. Once an Encumbered License in the Home State is restored to good standing, the  
24          Licensee must meet the requirements of Section 4(A) to obtain a Privilege to  
25          Practice in any Remote State.
- 26   G. If a Licensee's Privilege to Practice in any Remote State is removed, the individual  
27          may lose the Privilege to Practice in all other Remote States until the following

1 occur:

- 2 1. The specific period of time for which the Privilege to Practice was removed
- 3 has ended;
- 4 2. All fines have been paid; and
- 5 3. Have not had any Encumbrance or restriction against any license or Privilege
- 6 to Practice within the previous two (2) years.

7 H. Once the requirements of Section 4(G) have been met, the Licensee must meet the  
8 requirements in Section 4(A) to obtain a Privilege to Practice in a Remote State.

9 SECTION 5. OBTAINING A NEW HOME STATE LICENSE BASED ON A  
10 PRIVILEGE TO PRACTICE

11 A. A Licensed Professional Counselor may hold a Home State license, which allows  
12 for a Privilege to Practice in other Member States, in only one (1) Member State at  
13 a time.

14 B. If a Licensed Professional Counselor changes primary State of residence by moving  
15 between two (2) Member States:

16 1. The Licensed Professional Counselor shall file an application for obtaining a  
17 new Home State license based on a Privilege to Practice, pay all applicable  
18 fees, and notify the current and new Home State in accordance with  
19 applicable Rules adopted by the Commission.

20 2. Upon receipt of an application for obtaining a new Home State license by  
21 virtue of a Privilege to Practice, the new Home State shall verify that the  
22 Licensed Professional Counselor meets the pertinent criteria outlined in  
23 Section 4 via the Data System without need for primary source verification  
24 except for:

25 a. A Federal Bureau of Investigation fingerprint based criminal  
26 background check if not previously performed or updated pursuant to  
27 applicable rules adopted by the Commission in accordance with Public

1 Law 92-544;

2 b. Other criminal background check as required by the new Home State;  
3 and

4 c. Completion of any requisite Jurisprudence Requirements of the new  
5 Home State.

6 3. The former Home State shall convert the former Home State license into a  
7 Privilege to Practice once the new Home State has activated the new Home  
8 State license in accordance with applicable Rules adopted by the Commission.

9 4. Notwithstanding any other provision of this Compact, if the Licensed  
10 Professional Counselor cannot meet the criteria in Section 4, the new Home  
11 State may apply its requirements for issuing a new Single State License.

12 5. The Licensed Professional Counselor shall pay all applicable fees to the new  
13 Home State in order to be issued a new Home State license.

14 C. If a Licensed Professional Counselor changes Primary State of Residence by  
15 moving from a Member State to a non-Member State, or from a non-Member State  
16 to a Member State, the State criteria shall apply for issuance of a Single State  
17 License in the new State.

18 D. Nothing in this Compact shall interfere with a Licensee's ability to hold a Single  
19 State License in multiple States. However, for the purposes of this Compact, a  
20 Licensee shall have only one (1) Home State license.

21 E. Nothing in this Compact shall affect the requirements established by a Member  
22 State for the issuance of a Single State License.

## 23 SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

24 Active Duty Military personnel, or their spouse, shall designate a Home State where the  
25 individual has a current license in good standing. The individual may retain the Home  
26 State designation during the period the service member is on active duty. Subsequent to  
27 designating a Home State, the individual shall only change their Home State through

1 application for licensure in the new State, or through the process outlined in Section 5.

2 SECTION 7. COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

3 A. Member States shall recognize the right of a Licensed Professional Counselor,  
4 licensed by a Home State in accordance with Section 3 and under Rules  
5 promulgated by the Commission, to practice Professional Counseling in any  
6 Member State via Telehealth under a Privilege to Practice as provided in the  
7 Compact and Rules promulgated by the Commission.

8 B. A Licensee providing Professional Counseling services in a Remote State under the  
9 Privilege to Practice shall adhere to the laws and regulations of the Remote State.

10 SECTION 8. ADVERSE ACTIONS

11 A. In addition to the other powers conferred by State law, a Remote State shall have  
12 the authority, in accordance with existing State due process law, to:

13 1. Take Adverse Action against a Licensed Professional Counselor's Privilege to  
14 Practice within that Member State; and

15 2. Issue subpoenas for both hearings and investigations that require the  
16 attendance and testimony of witnesses as well as the production of evidence.  
17 Subpoenas issued by a Licensing Board in a Member State for the attendance  
18 and testimony of witnesses or the production of evidence from another  
19 Member State shall be enforced in the latter State by any court of competent  
20 jurisdiction, according to the practice and procedure of that court applicable to  
21 subpoenas issued in proceedings pending before it. The issuing authority shall  
22 pay any witness fees, travel expenses, mileage, and other fees required by the  
23 service statutes of the State in which the witnesses or evidence are located.

24 Only the Home State shall have the power to take Adverse Action against a  
25 Licensed Professional Counselor's license issued by the Home State.

26 B. For purposes of taking Adverse Action, the Home State shall give the same priority  
27 and effect to reported conduct received from a Member State as it would if the

- 1           conduct had occurred within the Home State. In so doing, the Home State shall  
2           apply its own State laws to determine appropriate action.
- 3       C.   The Home State shall complete any pending investigations of a Licensed  
4           Professional Counselor who changes primary State of residence during the course  
5           of the investigations. The Home State shall also have the authority to take  
6           appropriate action(s) and shall promptly report the conclusions of the investigations  
7           to the administrator of the Data System. The administrator of the coordinated  
8           licensure information system shall promptly notify the new Home State of any  
9           Adverse Actions.
- 10      D.   A Member State, if otherwise permitted by State law, may recover from the  
11           affected Licensed Professional Counselor the costs of investigations and  
12           dispositions of cases resulting from any Adverse Action taken against that Licensed  
13           Professional Counselor.
- 14      E.   A Member State may take Adverse Action based on the factual findings of the  
15           Remote State, provided that the Member State follows its own procedures for  
16           taking the Adverse Action.
- 17      F.   Joint Investigations:
- 18           1.   In addition to the authority granted to a Member State by its respective  
19           Professional Counseling practice act or other applicable State law, any  
20           Member State may participate with other Member States in joint  
21           investigations of Licensees.
- 22           2.   Member States shall share any investigative, litigation, or compliance  
23           materials in furtherance of any joint or individual investigation initiated under  
24           the Compact.
- 25      G.   If Adverse Action is taken by the Home State against the license of a Licensed  
26           Professional Counselor, the Licensed Professional Counselor's Privilege to Practice  
27           in all other Member States shall be deactivated until all Encumbrances have been

1 removed from the State license. All Home State disciplinary orders that impose  
2 Adverse Action against the license of a Licensed Professional Counselor shall  
3 include a Statement that the Licensed Professional Counselor's Privilege to Practice  
4 is deactivated in all Member States during the pendency of the order.

5 H. If a Member State takes Adverse Action, it shall promptly notify the administrator  
6 of the Data System. The administrator of the Data System shall promptly notify the  
7 Home State of any Adverse Actions by Remote States.

8 I. Nothing in this Compact shall override a Member State's decision that participation  
9 in an Alternative Program may be used in lieu of Adverse Action.

#### 10 SECTION 9. ESTABLISHMENT OF COUNSELING COMPACT COMMISSION

11 A. The Compact Member States hereby create and establish a joint public agency  
12 known as the Counseling Compact Commission:

13 1. The Commission is an instrumentality of the Compact States.

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

19 3. Nothing in this Compact shall be construed to be a waiver of sovereign  
20 immunity.

21 B. Membership, Voting, and Meetings

22 1. Each Member State shall have and be limited to one (1) delegate selected by  
23 that Member State's Licensing Board.

24 2. The delegate shall be either:

25 a. A current member of the Licensing Board at the time of appointment,  
26 who is a Licensed Professional Counselor or public member; or

27 b. An administrator of the Licensing Board.

- 1       3. Any delegate may be removed or suspended from office as provided by the  
2       law of the State from which the delegate is appointed.
- 3       4. The Member State Licensing Board shall fill any vacancy occurring on the  
4       Commission within sixty (60) days.
- 5       5. Each delegate shall be entitled to one (1) vote with regard to the promulgation  
6       of Rules and creation of bylaws and shall otherwise have an opportunity to  
7       participate in the business and affairs of the Commission.
- 8       6. A delegate shall vote in person or by such other means as provided in the  
9       bylaws. The bylaws may provide for delegates' participation in meetings by  
10      telephone or other means of communication.
- 11      7. The Commission shall meet at least once during each calendar year.  
12      Additional meetings shall be held as set forth in the bylaws.
- 13      8. The Commission shall by Rule establish a term of office for delegates and  
14      may by Rule establish term limits.
- 15    C. The Commission shall have the following powers and duties:
  - 16      1. Establish the fiscal year of the Commission;
  - 17      2. Establish bylaws;
  - 18      3. Maintain its financial records in accordance with the bylaws;
  - 19      4. Meet and take such actions as are consistent with the provisions of this  
20      Compact and the bylaws;
  - 21      5. Promulgate Rules which shall be binding to the extent and in the manner  
22      provided for in the Compact;
  - 23      6. Bring and prosecute legal proceedings or actions in the name of the  
24      Commission, provided that the standing of any State Licensing Board to sue  
25      or be sued under applicable law shall not be affected;
  - 26      7. Purchase and maintain insurance and bonds;
  - 27      8. Borrow, accept, or contract for services of personnel, including but not limited

- 1 to employees of a Member State;
- 2 9. Hire employees, elect or appoint officers, fix compensation, define duties,  
3 grant such individuals appropriate authority to carry out the purposes of the  
4 Compact, and establish the Commission's personnel policies and programs  
5 relating to conflicts of interest, qualifications of personnel, and other related  
6 personnel matters;
- 7 10. Accept any and all appropriate donations and grants of money, equipment,  
8 supplies, materials, and services, and to receive, utilize, and dispose of the  
9 same; provided that at all times the Commission shall avoid any appearance of  
10 impropriety and/or conflict of interest;
- 11 11. Lease, purchase, accept appropriate gifts or donations of, or otherwise to own,  
12 hold, improve, or use any property, real, personal, or mixed; provided that at  
13 all times the Commission shall avoid any appearance of impropriety;
- 14 12. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise  
15 dispose of any property real, personal, or mixed;
- 16 13. Establish a budget and make expenditures;
- 17 14. Borrow money;
- 18 15. Appoint committees, including standing committees composed of members,  
19 State regulators, State legislators or their representatives, consumer  
20 representatives, and such other interested persons as may be designated in this  
21 Compact and the bylaws;
- 22 16. Provide and receive information from, and cooperate with, law enforcement  
23 agencies;
- 24 17. Establish and elect an Executive Committee; and
- 25 18. Perform such other functions as may be necessary or appropriate to achieve  
26 the purposes of this Compact consistent with the State regulation of  
27 Professional Counseling licensure and practice.



1 D. The Executive Committee

2 1. The Executive Committee shall have the power to act on behalf of the  
3 Commission according to the terms of this Compact.

4 2. The Executive Committee shall be composed of up to eleven (11) members:

5 a. Seven (7) voting members who are elected by the Commission from the  
6 current membership of the Commission; and

7 b. Up to four (4) ex-officio, nonvoting members from four (4) recognized  
8 national professional counselor organizations. The ex-officio members  
9 shall be selected by their respective organizations.

10 3. The Commission may remove any member of the Executive Committee as  
11 provided in bylaws.

12 4. The Executive Committee shall meet at least annually.

13 5. The Executive Committee shall have the following duties and responsibilities:

14 a. Recommend to the entire Commission changes to the Rules or bylaws,  
15 changes to this Compact legislation, fees paid by Compact Member  
16 States such as annual dues, and any Commission Compact fee charged  
17 to Licensees for the Privilege to Practice;

18 b. Ensure Compact administration services are appropriately provided,  
19 contractual or otherwise;

20 c. Prepare and recommend the budget;

21 d. Maintain financial records on behalf of the Commission;

22 e. Monitor Compact compliance of Member States and provide  
23 compliance reports to the Commission;

24 f. Establish additional committees as necessary; and

25 g. Other duties as provided in Rules or bylaws.

26 E. Meetings of the Commission

27 1. All meetings shall be open to the public, and public notice of meetings shall

1 be given in the same manner as required under the Rulemaking provisions in  
2 Section 11.

- 3 2. The Commission or the Executive Committee or other committees of the  
4 Commission may convene in a closed, non-public meeting if the Commission  
5 or Executive Committee or other committees of the Commission must  
6 discuss:
- 7 a. Non-compliance of a Member State with its obligations under the  
8 Compact;
  - 9 b. The employment, compensation, discipline, or other matters, practices,  
10 or procedures related to specific employees or other matters related to  
11 the Commission's internal personnel practices and procedures;
  - 12 c. Current, threatened, or reasonably anticipated litigation;
  - 13 d. Negotiation of contracts for the purchase, lease, or sale of goods,  
14 services, or real estate;
  - 15 e. Accusing any person of a crime or formally censuring any person;
  - 16 f. Disclosure of trade secrets or commercial or financial information that is  
17 privileged or confidential;
  - 18 g. Disclosure of information of a personal nature where disclosure would  
19 constitute a clearly unwarranted invasion of personal privacy;
  - 20 h. Disclosure of investigative records compiled for law enforcement  
21 purposes;
  - 22 i. Disclosure of information related to any investigative reports prepared  
23 by or on behalf of or for use of the Commission or other committee  
24 charged with responsibility of investigation or determination of  
25 compliance issues pursuant to the Compact; or
  - 26 j. Matters specifically exempted from disclosure by federal or Member  
27 State statute.

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

11   F.    Financing of the Commission

- 12          1.    The Commission shall pay, or provide for the payment of, the reasonable  
13          expenses of its establishment, organization, and ongoing activities.
- 14          2.    The Commission may accept any and all appropriate revenue sources,  
15          donations, and grants of money, equipment, supplies, materials, and services.
- 16          3.    The Commission may levy on and collect an annual assessment from each  
17          Member State or impose fees on other parties to cover the cost of the  
18          operations and activities of the Commission and its staff, which must be in a  
19          total amount sufficient to cover its annual budget as approved each year for  
20          which revenue is not provided by other sources. The aggregate annual  
21          assessment amount shall be allocated based upon a formula to be determined  
22          by the Commission, which shall promulgate a Rule binding upon all Member  
23          States.
- 24          4.    The Commission shall not incur obligations of any kind prior to securing the  
25          funds adequate to meet the same; nor shall the Commission pledge the credit  
26          of any of the Member States, except by and with the authority of the Member  
27          State. The Commission shall keep accurate accounts of all receipts and

1 disbursements. The receipts and disbursements of the Commission shall be  
2 subject to the audit and accounting procedures established under its bylaws.  
3 However, all receipts and disbursements of funds handled by the Commission  
4 shall be audited yearly by a certified or licensed public accountant, and the  
5 report of the audit shall be included in and become part of the annual report of  
6 the Commission.

7 G. Qualified Immunity, Defense, and Indemnification

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

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

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

10   SECTION 10. DATA SYSTEM

11   A. The Commission shall provide for the development, maintenance, operation, and  
12   utilization of a coordinated database and reporting system containing licensure,  
13   Adverse Action, and Investigative Information on all licensed individuals in  
14   Member States.

15   B. Notwithstanding any other provision of State law to the contrary, a Member State  
16   shall submit a uniform data set to the Data System on all individuals to whom this  
17   Compact is applicable as required by the Rules of the Commission, including:

- 18       1. Identifying information;
- 19       2. Licensure data;
- 20       3. Adverse Actions against a license or Privilege to Practice;
- 21       4. Non-confidential information related to Alternative Program participation;
- 22       5. Any denial of application for licensure, and the reason(s) for such denial;
- 23       6. Current Significant Investigative Information; and
- 24       7. Other information that may facilitate the administration of this Compact, as  
25       determined by the Rules of the Commission.

26   C. Investigative Information pertaining to a Licensee in any Member State shall only  
27   be available to other Member States.

- 1 D. The Commission shall promptly notify all Member States of any Adverse Action  
2 taken against a Licensee or an individual applying for a license. Adverse Action  
3 information pertaining to a Licensee in any Member State will be available to any  
4 other Member State.
- 5 E. Member States contributing information to the Data System may designate  
6 information that may not be shared with the public without the express permission  
7 of the contributing State.
- 8 F. Any information submitted to the Data System that is subsequently required to be  
9 expunged by the laws of the Member State contributing the information shall be  
10 removed from the Data System.

11 SECTION 11. RULEMAKING

- 12 A. The Commission shall promulgate reasonable Rules in order to effectively and  
13 efficiently achieve the purpose of the Compact. Notwithstanding the foregoing, in  
14 the event the Commission exercises its Rulemaking authority in a manner that is  
15 beyond the scope of the purposes of the Compact, or the powers granted hereunder,  
16 then such an action by the Commission shall be invalid and have no force or effect.
- 17 B. The Commission shall exercise its Rulemaking powers pursuant to the criteria set  
18 forth in this Section and the Rules adopted thereunder. Rules and amendments shall  
19 become binding as of the date specified in each Rule or amendment.
- 20 C. If a majority of the legislatures of the Member States rejects a Rule, by enactment  
21 of a statute or resolution in the same manner used to adopt the Compact within four  
22 (4) years of the date of adoption of the Rule, then such Rule shall have no further  
23 force and effect in any Member State.
- 24 D. Rules or amendments to the Rules shall be adopted at a regular or special meeting  
25 of the Commission.
- 26 E. Prior to promulgation and adoption of a final Rule or Rules by the Commission, and  
27 at least thirty (30) days in advance of the meeting at which the Rule will be

1 considered and voted upon, the Commission shall file a Notice of Proposed  
2 Rulemaking:

- 3 1. On the website of the Commission or other publicly accessible platform; and
- 4 2. On the website of each Member State Professional Counseling Licensing  
5 Board or other publicly accessible platform or the publication in which each  
6 State would otherwise publish proposed Rules.

7 F. The Notice of Proposed Rulemaking shall include:

- 8 1. The proposed time, date, and location of the meeting in which the Rule shall  
9 be considered and voted upon;
- 10 2. The text of the proposed Rule or amendment and the reason for the proposed  
11 Rule;
- 12 3. A request for comments on the proposed Rule from any interested person; and
- 13 4. The manner in which interested persons may submit notice to the Commission  
14 of their intention to attend the public hearing and any written comments.

15 G. Prior to adoption of a proposed Rule, the Commission shall allow persons to submit  
16 written data, facts, opinions, and arguments, which shall be made available to the  
17 public.

18 H. The Commission shall grant an opportunity for a public hearing before it adopts a  
19 Rule or amendment if a hearing is requested by:

- 20 1. At least twenty-five (25) persons;
- 21 2. A State or federal governmental subdivision or agency; or
- 22 3. An association having at least twenty-five (25) members.

23 I. If a hearing is held on the proposed Rule or amendment, the Commission shall  
24 publish the place, time, and date of the scheduled public hearing. If the hearing is  
25 held via electronic means, the Commission shall publish the mechanism for access  
26 to the electronic hearing.

- 27 1. All persons wishing to be heard at the hearing shall notify the executive

- 1 director of the Commission or other designated member in writing of their  
2 desire to appear and testify at the hearing not less than five (5) business days  
3 before the scheduled date of the hearing.
- 4 2. Hearings shall be conducted in a manner providing each person who wishes to  
5 comment a fair and reasonable opportunity to comment orally or in writing.
- 6 3. All hearings shall be recorded. A copy of the recording shall be made  
7 available on request.
- 8 4. Nothing in this section shall be construed as requiring a separate hearing on  
9 each Rule. Rules may be grouped for the convenience of the Commission at  
10 hearings required by this section.
- 11 J. Following the scheduled hearing date, or by the close of business on the scheduled  
12 hearing date if the hearing was not held, the Commission shall consider all written  
13 and oral comments received.
- 14 K. If no written notice of intent to attend the public hearing by interested parties is  
15 received, the Commission may proceed with promulgation of the proposed Rule  
16 without a public hearing.
- 17 L. The Commission shall, by majority vote of all members, take final action on the  
18 proposed Rule and shall determine the effective date of the Rule, if any, based on  
19 the Rulemaking record and the full text of the Rule.
- 20 M. Upon determination that an emergency exists, the Commission may consider and  
21 adopt an emergency Rule without prior notice, opportunity for comment, or  
22 hearing, provided that the usual Rulemaking procedures provided in the Compact  
23 and in this section shall be retroactively applied to the Rule as soon as reasonably  
24 possible, in no event later than ninety (90) days after the effective date of the Rule.  
25 For the purposes of this provision, an emergency Rule is one that must be adopted  
26 immediately in order to:
- 27 1. Meet an imminent threat to public health, safety, or welfare;



- 1           2.    Prevent a loss of Commission or Member State funds;
  - 2           3.    Meet a deadline for the promulgation of an administrative Rule that is
  - 3                 established by federal law or Rule; or
  - 4           4.    Protect public health and safety.
- 5    N.    The Commission or an authorized committee of the Commission may direct
- 6           revisions to a previously adopted Rule or amendment for purposes of correcting
- 7           typographical errors, errors in format, errors in consistency, or grammatical errors.
- 8           Public notice of any revisions shall be posted on the website of the Commission.
- 9           The revision shall be subject to challenge by any person for a period of thirty (30)
- 10          days after posting. The revision may be challenged only on grounds that the
- 11          revision results in a material change to a Rule. A challenge shall be made in writing
- 12          and delivered to the chair of the Commission prior to the end of the notice period. If
- 13          no challenge is made, the revision will take effect without further action. If the
- 14          revision is challenged, the revision may not take effect without the approval of the
- 15          Commission.

## 16    SECTION 12. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

### 17    A.    Oversight

- 18          1.    The executive, legislative, and judicial branches of State government in each
- 19                 Member State shall enforce this Compact and take all actions necessary and
- 20                 appropriate to effectuate the Compact's purposes and intent. The provisions of
- 21                 this Compact and the Rules promulgated hereunder shall have standing as
- 22                 statutory law.
- 23          2.    All courts shall take judicial notice of the Compact and the Rules in any
- 24                 judicial or administrative proceeding in a Member State pertaining to the
- 25                 subject matter of this Compact which may affect the powers, responsibilities,
- 26                 or actions of the Commission.
- 27          3.    The Commission shall be entitled to receive service of process in any such

1 proceeding and shall have standing to intervene in such a proceeding for all  
2 purposes. Failure to provide service of process to the Commission shall render  
3 a judgment or order void as to the Commission, this Compact, or promulgated  
4 Rules.

5 B. Default, Technical Assistance, and Termination

6 1. If the Commission determines that a Member State has defaulted in the  
7 performance of its obligations or responsibilities under this Compact or the  
8 promulgated Rules, the Commission shall:

- 9 a. Provide written notice to the defaulting State and other Member States  
10 of the nature of the default, the proposed means of curing the default  
11 and/or any other action to be taken by the Commission; and  
12 b. Provide remedial training and specific technical assistance regarding the  
13 default.

14 C. If a State in default fails to cure the default, the defaulting State may be terminated  
15 from the Compact upon an affirmative vote of a majority of the Member States, and  
16 all rights, privileges, and benefits conferred by this Compact may be terminated on  
17 the effective date of termination. A cure of the default does not relieve the  
18 offending State of obligations or liabilities incurred during the period of default.

19 D. Termination of membership in the Compact shall be imposed only after all other  
20 means of securing compliance have been exhausted. Notice of intent to suspend or  
21 terminate shall be given by the Commission to the governor, the majority and  
22 minority leaders of the defaulting State's legislature, and each of the Member  
23 States.

24 E. A State that has been terminated is responsible for all assessments, obligations, and  
25 liabilities incurred through the effective date of termination, including obligations  
26 that extend beyond the effective date of termination.

27 F. The Commission shall not bear any costs related to a State that is found to be in

1 default or that has been terminated from the Compact, unless agreed upon in writing  
2 between the Commission and the defaulting State.

3 G. The defaulting State may appeal the action of the Commission by petitioning the  
4 U.S. District Court for the District of Columbia or the federal district where the  
5 Commission has its principal offices. The prevailing member shall be awarded all  
6 costs of such litigation, including reasonable attorney's fees.

7 H. Dispute Resolution

8 1. Upon request by a Member State, the Commission shall attempt to resolve  
9 disputes related to the Compact that arise among Member States and between  
10 member and non-Member States.

11 2. The Commission shall promulgate a Rule providing for both mediation and  
12 binding dispute resolution for disputes as appropriate.

13 I. Enforcement

14 1. The Commission, in the reasonable exercise of its discretion, shall enforce the  
15 provisions and Rules of this Compact.

16 2. By majority vote, the Commission may initiate legal action in the United  
17 States District Court for the District of Columbia or the federal district where  
18 the Commission has its principal offices against a Member State in default to  
19 enforce compliance with the provisions of the Compact and its promulgated  
20 Rules and bylaws. The relief sought may include both injunctive relief and  
21 damages. In the event judicial enforcement is necessary, the prevailing  
22 member shall be awarded all costs of such litigation, including reasonable  
23 attorney's fees.

24 3. The remedies herein shall not be the exclusive remedies of the Commission.  
25 The Commission may pursue any other remedies available under federal or  
26 State law.

27 SECTION 13. DATE OF IMPLEMENTATION OF THE COUNSELING COMPACT

## 1 COMMISSION AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

- 2 A. The Compact shall come into effect on the date on which the Compact statute is  
3 enacted into law in the tenth Member State. The provisions, which become effective  
4 at that time, shall be limited to the powers granted to the Commission relating to  
5 assembly and the promulgation of Rules. Thereafter, the Commission shall meet  
6 and exercise Rulemaking powers necessary to the implementation and  
7 administration of the Compact.
- 8 B. Any State that joins the Compact subsequent to the Commission's initial adoption  
9 of the Rules shall be subject to the Rules as they exist on the date on which the  
10 Compact becomes law in that State. Any Rule that has been previously adopted by  
11 the Commission shall have the full force and effect of law on the day the Compact  
12 becomes law in that State.
- 13 C. Any Member State may withdraw from this Compact by enacting a statute  
14 repealing the same.
- 15 1. A Member State's withdrawal shall not take effect until six (6) months after  
16 enactment of the repealing statute.
- 17 2. Withdrawal shall not affect the continuing requirement of the withdrawing  
18 State's Professional Counseling Licensing Board to comply with the  
19 investigative and Adverse Action reporting requirements of KRS 335.560  
20 prior to the effective date of withdrawal.
- 21 D. Nothing contained in this Compact shall be construed to invalidate or prevent any  
22 Professional Counseling licensure agreement or other cooperative arrangement  
23 between a Member State and a non-Member State that does not conflict with the  
24 provisions of this Compact.
- 25 E. This Compact may be amended by the Member States. No amendment to this  
26 Compact shall become effective and binding upon any Member State until it is  
27 enacted into the laws of all Member States.

## 1 SECTION 14. CONSTRUCTION AND SEVERABILITY

2 This Compact shall be liberally construed so as to effectuate the purposes thereof. The  
3 provisions of this Compact shall be severable and if any phrase, clause, sentence, or  
4 provision of this Compact is declared to be contrary to the constitution of any Member  
5 State or of the United States or the applicability thereof to any government, agency,  
6 person, or circumstance is held invalid, the validity of the remainder of this Compact and  
7 the applicability thereof to any government, agency, person, or circumstance shall not be  
8 affected thereby. If this Compact shall be held contrary to the constitution of any Member  
9 State, the Compact shall remain in full force and effect as to the remaining Member  
10 States and in full force and effect as to the Member State affected as to all severable  
11 matters.

## 12 SECTION 15. BINDING EFFECT OF COMPACT AND OTHER LAWS

- 13 A. A Licensee providing Professional Counseling services in a Remote State under the  
14 Privilege to Practice shall adhere to the laws and regulations, including scope of  
15 practice, of the Remote State.
- 16 B. Nothing herein prevents the enforcement of any other law of a Member State that is  
17 not inconsistent with the Compact.
- 18 C. Any laws in a Member State in conflict with the Compact are superseded to the  
19 extent of the conflict.
- 20 D. Any lawful actions of the Commission, including all Rules and bylaws properly  
21 promulgated by the Commission, are binding upon the Member States.
- 22 E. All permissible agreements between the Commission and the Member States are  
23 binding in accordance with their terms.
- 24 F. In the event any provision of the Compact exceeds the constitutional limits imposed  
25 on the legislature of any Member State, the provision shall be ineffective to the  
26 extent of the conflict with the constitutional provision in question in that Member  
27 State.

1 SECTION 16: APPLICABILITY OF KENTUCKY STATE GOVERNMENT

2 In order to clarify the effect of certain provisions of this Compact and to ensure that the  
3 rights and responsibilities of the various branches of government are maintained, the  
4 following shall be in effect in this State:

5 A. By entering into this Compact, this State authorizes the Licensing Board as defined  
6 in Section 2(Q) of this Compact and as created by KRS Chapter 335 to implement  
7 the provisions of this Compact.

8 B. Notwithstanding any provision of this Compact to the contrary:

9 1. When a rule is adopted pursuant to Section 11 of this Compact, the Licensing  
10 Board of this State as defined by Section 2(Q) of this Compact shall have  
11 sixty (60) days to review the rule for the purpose of filing the rule as an  
12 emergency administrative regulation pursuant to KRS 13A.190 and for filing  
13 the rule as an accompanying ordinary administrative regulation, following the  
14 requirements of KRS Chapter 13A. Failure by the Licensing Board of this  
15 State as defined by Section 2(Q) of this Compact to promulgate a rule adopted  
16 by the Counseling Compact Commission as an administrative regulation  
17 pursuant to KRS Chapter 13A shall result in withdrawal as set forth in Section  
18 13 of this Compact. Nothing in these provisions shall negate the applicability  
19 of a Commission rule or Section 11 of this Compact to this State.

20 2. If the proposed administrative regulation is found deficient and the deficiency  
21 is not resolved pursuant to KRS 13A.330 or 13A.335 or Section 6 of this Act,  
22 the provisions of Section 12 of this Compact shall apply. If the deficiency is  
23 resolved in a manner determined by the Commission to be inconsistent with  
24 this Compact or its rules, or if the procedures under Section 12 of this  
25 Compact fail to resolve an issue, the withdrawal provisions of Section 13 of  
26 this Compact shall apply.

27 3. If a court of competent jurisdiction determines that the Counseling Compact

1 Commission created by Section 9 of this Compact exercises its Rulemaking  
2 authority in a manner that is beyond the scope of the purposes of this  
3 Compact, or the powers granted under this Compact, then such an action by  
4 the Commission shall be invalid and have no force or effect.

5 C. Section 9(F) of this Compact pertaining to the financing of the Commission shall  
6 not be interpreted to obligate the general fund of this State. Any funds used to  
7 finance this Compact shall be from money collected pursuant to KRS 335.520.

8 D. This Compact shall apply only to those Licensed Professional Counselors who  
9 practice or work under a Compact privilege.

10 ➔Section 17. Whereas the Administrative Regulation Review Subcommittee is a  
11 statutory committee meeting monthly and addressing numerous items brought before it at  
12 those meetings, and it is imperative to ensure that the mechanisms involving  
13 administrative regulations are effectual, an emergency is declared to exist, and this Act  
14 takes effect upon its passage and approval by the Governor or upon its otherwise  
15 becoming a law.