

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1816
98TH GENERAL ASSEMBLY

Reported from the Committee on Financial and Governmental Organizations and Elections, May 4, 2016, with recommendation that the Senate Committee Substitute do pass.

4462S.03C

ADRIANE D. CROUSE, Secretary.

AN ACT

To repeal sections 324.001, 334.040, 335.203, 335.300, 335.305, 335.310, 335.315, 335.320, 335.325, 335.330, 335.335, 335.340, 335.345, 335.350, 335.355, 336.020, 376.1237, and 630.175, RSMo, and to enact in lieu thereof thirty-four new sections relating to health care, with a contingent effective date for certain sections.

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

Section A. Sections 324.001, 334.040, 335.203, 335.300, 335.305, 335.310, 335.315, 335.320, 335.325, 335.330, 335.335, 335.340, 335.345, 335.350, 335.355, 336.020, 376.1237, and 630.175, RSMo, are repealed and thirty-four new sections enacted in lieu thereof, to be known as sections 197.321, 197.322, 324.001, 334.040, 334.285, 334.1200, 334.1203, 334.1206, 334.1209, 334.1212, 334.1215, 334.1218, 334.1221, 334.1224, 334.1227, 334.1230, 334.1233, 335.203, 335.360, 335.365, 335.370, 335.375, 335.380, 335.385, 335.390, 335.395, 335.400, 335.405, 335.410, 335.415, 336.020, 338.202, 376.1237, and 630.175, to read as follows:

197.321. 1. For the purposes of this section, the following terms shall mean:

- (1) "Affiliated", under common control or ownership;**
 - (2) "Campus", a contiguous parcel or parcels of land used for a common purpose;**
 - (3) "Committee", the Missouri health facilities review committee;**
 - (4) "Department", the department of health and senior services;**
 - (5) "Facility", as defined in subdivision (11) of section 198.006.**
- 2. Notwithstanding any provision of sections 197.300 to 197.367**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

10 to the contrary, there is hereby imposed a moratorium on the issuance
11 of certificates of need by the committee for new or additional beds in
12 any facility on or after August 28, 2016, until December 31, 2019. No
13 new or additional beds in such facilities shall be licensed by the
14 department, except for those new or additional beds approved by the
15 committee under this section or pursuant to a certificate of need issued
16 by the committee prior to August 28, 2016, subject to the limitations of
17 subsection 4 of this section.

18 3. The moratorium shall not apply to:

19 (1) Bed additions, expansions, transfers, relocations, or
20 replacements as described in paragraphs (e) and (g) of subdivision (9)
21 of section 197.305 and section 197.318;

22 (2) Renovation, repair, or replacement of existing facilities and
23 beds located on a single campus, which does not result in an increase
24 in the number of beds licensed to the facility prior to the renovation,
25 repair, or replacement;

26 (3) Reallocation of licensed beds among licensed facilities with
27 common ownership and common or affiliated operators located on the
28 same campus, provided that the total number of licensed beds on the
29 campus does not increase;

30 (4) Construction of new or additional beds at any facility as
31 proposed in a letter of intent filed by an applicant on or before June 1,
32 2016; and

33 (5) Construction of new or additional beds at any facility for
34 which the applicant demonstrates that the average occupancy of all
35 facilities in the same category within fifteen miles of the project site
36 has been equal to or greater than eighty-five percent during the most
37 recent four quarters according to occupancy data published by the
38 committee.

39 4. For the duration of the moratorium imposed under this
40 section, the committee shall not approve any change in the owner or
41 operator, or grant a site change, except as provided herein, for a
42 certificate of need issued prior to the enactment of this section. The
43 committee may approve only one site change for any project, provided
44 that the new site shall not be located more than one-half mile from the
45 original site.

197.322. 1. There is hereby created within the department of

2 social services the "Missouri Task Force on Certificate of Need". The
3 task force shall be composed of the following eleven members:

4 (1) Two members of the senate from different political parties
5 and who are not members of the Missouri health facilities review
6 committee, appointed by the president pro tempore of the senate;

7 (2) Two members of the house of representatives from different
8 political parties and who are not members of the Missouri health
9 facilities review committee, appointed by the speaker of the house of
10 representatives;

11 (3) The director of the department of health and senior services,
12 or the director's designee;

13 (4) The director of the department of social services, or the
14 director's designee;

15 (5) One representative of an organization of operators of long-
16 term care facilities organized primarily as for-profit entities;

17 (6) One representative of an organization of operators of long-
18 term care facilities organized primarily as nonprofit or benevolent
19 entities;

20 (7) One representative of an organization of operators of assisted
21 living facilities and residential care facilities;

22 (8) One member who has expertise in lending to the long-term
23 care industry; and

24 (9) One member who is a certified public accountant with
25 expertise in reimbursement systems and in providing financial cost
26 reporting and related services to providers of long-term care services.

27 Members of the task force, other than the legislative members and
28 department directors, shall be appointed by the governor with the
29 advice and consent of the senate no later than December 31, 2016.

30 2. A majority of the task force membership shall constitute a
31 quorum and shall elect a chair and vice-chair of the task force.

32 3. A majority vote of a quorum of the task force is required for
33 any action.

34 4. The director of the department of social services, or his or her
35 designee, shall convene the initial meeting of the task force no later
36 than March 1, 2017. The task force shall meet at least every other
37 month. Meetings may be held by telephone or video conference at the
38 discretion of the chair.

39 **5. Members shall serve on the task force without compensation**
40 **but may, subject to appropriations, be reimbursed for actual and**
41 **necessary expenses incurred in the performance of their official duties**
42 **as members of the task force. Subject to appropriations, the task force**
43 **may engage the services of a consulting firm with expertise in**
44 **consulting for providers of long-term care regarding quality and**
45 **efficiency of care. No consulting firm that has a direct or indirect**
46 **financial relationship with a member of the task force or his or her**
47 **family members shall be engaged by the task force.**

48 **6. The goal of the task force is to develop a comprehensive**
49 **proposal to reform Missouri's certificate of need law, sections 197.300**
50 **to 198.367, as applied to long-term care facilities.**

51 **7. No later than December 31, 2018, the task force shall:**

52 **(1) Review practices in other states regarding certificates of**
53 **need for long-term care facilities and consider how certificates of need**
54 **support or detract from quality of care, cost containment, reasonable**
55 **access, consumer choice, average occupancy, and public accountability;**

56 **(2) Review the current occupancy, utilization of long-term care**
57 **beds, and staffing in the state as compared to other states, and evaluate**
58 **the impact of certificate of need laws on such occupancy, utilization,**
59 **and staffing;**

60 **(3) Evaluate the relationship between the certificate of need laws**
61 **and MO HealthNet reimbursement rates on the long-term care**
62 **marketplace;**

63 **(4) Develop appropriate factors to determine need for new or**
64 **additional long-term care beds if necessary to support the findings and**
65 **recommendations of the task force; and**

66 **(5) Propose to the appropriate public and private organizations**
67 **goals, objectives, strategies, and tactics designed to end or improve the**
68 **certificate of need process.**

69 **8. On or before December 31, 2018, the task force shall submit a**
70 **report on its findings to the governor and general assembly. The report**
71 **shall include any dissenting opinions in addition to any majority**
72 **opinions.**

73 **9. The task force shall expire on January 1, 2019, or upon**
74 **submission of a report as provided for under subsection 8 of this**
75 **section, whichever is earlier.**

324.001. 1. For the purposes of this section, the following terms mean:

2 (1) "Department", the department of insurance, financial institutions and
3 professional registration;

4 (2) "Director", the director of the division of professional registration; and

5 (3) "Division", the division of professional registration.

6 2. There is hereby established a "Division of Professional Registration"
7 assigned to the department of insurance, financial institutions and professional
8 registration as a type III transfer, headed by a director appointed by the governor
9 with the advice and consent of the senate. All of the general provisions,
10 definitions and powers enumerated in section 1 of the Omnibus State
11 Reorganization Act of 1974 and Executive Order 06-04 shall apply to this
12 department and its divisions, agencies, and personnel.

13 3. The director of the division of professional registration shall promulgate
14 rules and regulations which designate for each board or commission assigned to
15 the division the renewal date for licenses or certificates. After the initial
16 establishment of renewal dates, no director of the division shall promulgate a rule
17 or regulation which would change the renewal date for licenses or certificates if
18 such change in renewal date would occur prior to the date on which the renewal
19 date in effect at the time such new renewal date is specified next occurs. Each
20 board or commission shall by rule or regulation establish licensing periods of one,
21 two, or three years. Registration fees set by a board or commission shall be
22 effective for the entire licensing period involved, and shall not be increased
23 during any current licensing period. Persons who are required to pay their first
24 registration fees shall be allowed to pay the pro rata share of such fees for the
25 remainder of the period remaining at the time the fees are paid. Each board or
26 commission shall provide the necessary forms for initial registration, and
27 thereafter the director may prescribe standard forms for renewal of licenses and
28 certificates. Each board or commission shall by rule and regulation require each
29 applicant to provide the information which is required to keep the board's records
30 current. Each board or commission shall have the authority to collect and
31 analyze information required to support workforce planning and policy
32 development. Such information shall not be publicly disclosed so as to identify
33 a specific health care provider, as defined in section 376.1350. Each board or
34 commission shall issue the original license or certificate.

35 4. The division shall provide clerical and other staff services relating to
36 the issuance and renewal of licenses for all the professional licensing and

37 regulating boards and commissions assigned to the division. The division shall
38 perform the financial management and clerical functions as they each relate to
39 issuance and renewal of licenses and certificates. "Issuance and renewal of
40 licenses and certificates" means the ministerial function of preparing and
41 delivering licenses or certificates, and obtaining material and information for the
42 board or commission in connection with the renewal thereof. It does not include
43 any discretionary authority with regard to the original review of an applicant's
44 qualifications for licensure or certification, or the subsequent review of licensee's
45 or certificate holder's qualifications, or any disciplinary action contemplated
46 against the licensee or certificate holder. The division may develop and
47 implement microfilming systems and automated or manual management
48 information systems.

49 5. The director of the division shall maintain a system of accounting and
50 budgeting, in cooperation with the director of the department, the office of
51 administration, and the state auditor's office, to ensure proper charges are made
52 to the various boards for services rendered to them. The general assembly shall
53 appropriate to the division and other state agencies from each board's funds
54 moneys sufficient to reimburse the division and other state agencies for all
55 services rendered and all facilities and supplies furnished to that board.

56 6. For accounting purposes, the appropriation to the division and to the
57 office of administration for the payment of rent for quarters provided for the
58 division shall be made from the "Professional Registration Fees Fund", which is
59 hereby created, and is to be used solely for the purpose defined in subsection 5
60 of this section. The fund shall consist of moneys deposited into it from each
61 board's fund. Each board shall contribute a prorated amount necessary to fund
62 the division for services rendered and rent based upon the system of accounting
63 and budgeting established by the director of the division as provided in
64 subsection 5 of this section. Transfers of funds to the professional registration
65 fees fund shall be made by each board on July first of each year; provided,
66 however, that the director of the division may establish an alternative date or
67 dates of transfers at the request of any board. Such transfers shall be made until
68 they equal the prorated amount for services rendered and rent by the
69 division. The provisions of section 33.080 to the contrary notwithstanding, money
70 in this fund shall not be transferred and placed to the credit of general revenue.

71 7. The director of the division shall be responsible for collecting and
72 accounting for all moneys received by the division or its component agencies. Any

73 money received by a board or commission shall be promptly given, identified by
74 type and source, to the director. The director shall keep a record by board and
75 state accounting system classification of the amount of revenue the director
76 receives. The director shall promptly transmit all receipts to the department of
77 revenue for deposit in the state treasury to the credit of the appropriate
78 fund. The director shall provide each board with all relevant financial
79 information in a timely fashion. Each board shall cooperate with the director by
80 providing necessary information.

81 8. All educational transcripts, test scores, complaints, investigatory
82 reports, and information pertaining to any person who is an applicant or licensee
83 of any agency assigned to the division of professional registration by statute or
84 by the department are confidential and may not be disclosed to the public or any
85 member of the public, except with the written consent of the person whose records
86 are involved. The agency which possesses the records or information shall
87 disclose the records or information if the person whose records or information is
88 involved has consented to the disclosure. Each agency is entitled to the
89 attorney-client privilege and work-product privilege to the same extent as any
90 other person. Provided, however, that any board may disclose confidential
91 information without the consent of the person involved in the course of voluntary
92 interstate exchange of information, or in the course of any litigation concerning
93 that person, or pursuant to a lawful request, or to other administrative or law
94 enforcement agencies acting within the scope of their statutory
95 authority. Information regarding identity, including names and addresses,
96 registration, and currency of the license of the persons possessing licenses to
97 engage in a professional occupation and the names and addresses of applicants
98 for such licenses is not confidential information.

99 9. Any deliberations conducted and votes taken in rendering a final
100 decision after a hearing before an agency assigned to the division shall be closed
101 to the parties and the public. Once a final decision is rendered, that decision
102 shall be made available to the parties and the public.

103 10. A compelling governmental interest shall be deemed to exist for the
104 purposes of section 536.025 for licensure fees to be reduced by emergency rule, if
105 the projected fund balance of any agency assigned to the division of professional
106 registration is reasonably expected to exceed an amount that would require
107 transfer from that fund to general revenue.

108 11. (1) The following boards and commissions are assigned by specific

109 type transfers to the division of professional registration: Missouri state board of
110 accountancy, chapter 326; board of cosmetology and barber examiners, chapters
111 328 and 329; Missouri board for architects, professional engineers, professional
112 land surveyors and landscape architects, chapter 327; Missouri state board of
113 chiropractic examiners, chapter 331; state board of registration for the healing
114 arts, chapter 334; Missouri dental board, chapter 332; state board of embalmers
115 and funeral directors, chapter 333; state board of optometry, chapter 336;
116 Missouri state board of nursing, chapter 335; board of pharmacy, chapter 338;
117 state board of podiatric medicine, chapter 330; Missouri real estate appraisers
118 commission, chapter 339; and Missouri veterinary medical board, chapter
119 340. The governor shall appoint members of these boards by and with the advice
120 and consent of the senate.

121 (2) The boards and commissions assigned to the division shall exercise all
122 their respective statutory duties and powers, except those clerical and other staff
123 services involving collecting and accounting for moneys and financial
124 management relating to the issuance and renewal of licenses, which services shall
125 be provided by the division, within the appropriation therefor. Nothing herein
126 shall prohibit employment of professional examining or testing services from
127 professional associations or others as required by the boards or commissions on
128 contract. Nothing herein shall be construed to affect the power of a board or
129 commission to expend its funds as appropriated. However, the division shall
130 review the expense vouchers of each board. The results of such review shall be
131 submitted to the board reviewed and to the house and senate appropriations
132 committees annually.

133 (3) Notwithstanding any other provisions of law, the director of the
134 division shall exercise only those management functions of the boards and
135 commissions specifically provided in the Reorganization Act of 1974, and those
136 relating to the allocation and assignment of space, personnel other than board
137 personnel, and equipment.

138 (4) "Board personnel", as used in this section or chapters 317, 326, 327,
139 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, and 345, shall
140 mean personnel whose functions and responsibilities are in areas not related to
141 the clerical duties involving the issuance and renewal of licenses, to the collecting
142 and accounting for moneys, or to financial management relating to issuance and
143 renewal of licenses; specifically included are executive secretaries (or comparable
144 positions), consultants, inspectors, investigators, counsel, and secretarial support

145 staff for these positions; and such other positions as are established and
146 authorized by statute for a particular board or commission. Boards and
147 commissions may employ legal counsel, if authorized by law, and temporary
148 personnel if the board is unable to meet its responsibilities with the employees
149 authorized above. Any board or commission which hires temporary employees
150 shall annually provide the division director and the appropriation committees of
151 the general assembly with a complete list of all persons employed in the previous
152 year, the length of their employment, the amount of their remuneration, and a
153 description of their responsibilities.

154 (5) Board personnel for each board or commission shall be employed by
155 and serve at the pleasure of the board or commission, shall be supervised as the
156 board or commission designates, and shall have their duties and compensation
157 prescribed by the board or commission, within appropriations for that purpose,
158 except that compensation for board personnel shall not exceed that established
159 for comparable positions as determined by the board or commission pursuant to
160 the job and pay plan of the department of insurance, financial institutions and
161 professional registration. Nothing herein shall be construed to permit salaries
162 for any board personnel to be lowered except by board action.

163 12. All the powers, duties, and functions of the division of athletics,
164 chapter 317, and others, are assigned by type I transfer to the division of
165 professional registration.

166 13. Wherever the laws, rules, or regulations of this state make reference
167 to the "division of professional registration of the department of economic
168 development", such references shall be deemed to refer to the division of
169 professional registration.

170 14. (1) **The state board of nursing, board of pharmacy, Missouri**
171 **dental board, state committee of psychologists, state board of**
172 **chiropractic examiners, state board of optometry, Missouri board of**
173 **occupational therapy, or state board of registration for the healing arts**
174 **may individually or collectively enter into a contractual agreement**
175 **with the department of health and senior services, a public institution**
176 **of higher education, or a nonprofit entity for the purpose of collecting**
177 **and analyzing workforce data from its licensees, registrants, or permit**
178 **holders for future workforce planning and to assess the accessibility**
179 **and availability of qualified health care services and practitioners in**
180 **Missouri. The boards shall work collaboratively with other state**

181 governmental entities to ensure coordination and avoid duplication of
182 efforts.

183 (2) The boards may expend appropriated funds necessary for
184 operational expenses of the program formed under this subsection.
185 Each board is authorized to accept grants to fund the collection or
186 analysis authorized in this subsection. Any such funds shall be
187 deposited in the respective board's fund.

188 (3) Data collection shall be controlled and approved by the
189 applicable state board conducting or requesting the
190 collection. Notwithstanding the provisions of sections 324.010 and
191 334.001, the boards may release identifying data to the contractor to
192 facilitate data analysis of the health care workforce including, but not
193 limited to, geographic, demographic, and practice or professional
194 characteristics of licensees. The state board shall not request or be
195 authorized to collect income or other financial earnings data.

196 (4) Data collected under this subsection shall be deemed the
197 property of the state board requesting the data. Data shall be
198 maintained by the state board in accordance with chapter 610, provided
199 that any information deemed closed or confidential under subsection
200 8 of this section or any other provision of state law shall not be
201 disclosed without consent of the applicable licensee or entity or as
202 otherwise authorized by law. Data shall only be released in an
203 aggregate form by geography, profession or professional specialization,
204 or population characteristic in a manner that cannot be used to
205 identify a specific individual or entity. Data suppression standards
206 shall be addressed and established in the contractual agreement.

207 (5) Contractors shall maintain the security and confidentiality
208 of data received or collected under this subsection and shall not use,
209 disclose, or release any data without approval of the applicable state
210 board. The contractual agreement between the applicable state board
211 and contractor shall establish a data release and research review policy
212 to include legal and institutional review board, or agency equivalent,
213 approval.

214 (6) Each board may promulgate rules subject to the provisions
215 of this subsection and chapter 536 to effectuate and implement the
216 workforce data collection and analysis authorized by this
217 subsection. Any rule or portion of a rule, as that term is defined in

218 **section 536.010, that is created under the authority delegated in this**
219 **section shall become effective only if it complies with and is subject to**
220 **all of the provisions of chapter 536 and, if applicable, section**
221 **536.028. This section and chapter 536 are nonseverable, and if any of**
222 **the powers vested with the general assembly under chapter 536 to**
223 **review, to delay the effective date, or to disapprove and annul a rule**
224 **are subsequently held unconstitutional, then the grant of rulemaking**
225 **authority and any rule proposed or adopted after August 28, 2016, shall**
226 **be invalid and void.**

334.040. 1. Except as provided in section 334.260, all persons desiring to
2 practice as physicians and surgeons in this state shall be examined as to their
3 fitness to engage in such practice by the board. All persons applying for
4 examination shall file a completed application with the board upon forms
5 furnished by the board.

6 2. The examination shall be sufficient to test the applicant's fitness to
7 practice as a physician and surgeon. The examination shall be conducted in such
8 a manner as to conceal the identity of the applicant until all examinations have
9 been scored. In all such examinations an average score of not less than seventy-
10 five percent is required to pass; provided, however, that the board may require
11 applicants to take the Federation Licensing Examination, also known as FLEX,
12 or the United States Medical Licensing Examination (USMLE). If the FLEX
13 examination is required, a weighted average score of no less than seventy-five is
14 required to pass. Scores from one test administration of **[the FLEX] an**
15 **examination** shall not be combined or averaged with scores from other test
16 administrations to achieve a passing score. **[The passing score of the United**
17 **States Medical Licensing Examination shall be determined by the board through**
18 **rule and regulation.]** Applicants graduating from a medical or osteopathic college,
19 as **[defined] described** in section 334.031 prior to January 1, 1994, shall provide
20 proof of successful completion of the FLEX, USMLE, **[an exam administered by]**
21 **the National Board of Osteopathic Medical Examiners [(NBOME),]**
22 **Comprehensive Licensing Exam (COMLEX)**, a state board examination
23 approved by the board, compliance with subsection 2 of section 334.031, or
24 compliance with 20 CSR 2150-2.005. Applicants graduating from a medical or
25 osteopathic college, as **[defined] described** in section 334.031 on or after January
26 1, 1994, must provide proof of **successful** completion of the USMLE or **[an exam**
27 **administered by NBOME] the COMLEX** or provide proof of compliance with

28 subsection 2 of section 334.031. The board shall not issue a permanent license
29 as a physician and surgeon or allow the Missouri state board examination to be
30 administered to any applicant who has failed to achieve a passing score within
31 three attempts on licensing examinations administered in one or more states or
32 territories of the United States, the District of Columbia or Canada. The steps
33 one, two and three of the United States Medical Licensing Examination **or the**
34 **National Board of Osteopathic Medical Examiners Comprehensive**
35 **Licensing Exam** shall be taken within a seven-year period with no more than
36 three attempts on any step of the examination; however, the board may grant an
37 extension of the seven-year period if the applicant has obtained a MD/PhD degree
38 in a program accredited by the Liaison Committee on Medical Education (LCME)
39 and a regional university accrediting body or a DO/PhD degree accredited by the
40 American Osteopathic Association and a regional university accrediting
41 body. The board may waive the provisions of this section if the applicant is
42 licensed to practice as a physician and surgeon in another state of the United
43 States, the District of Columbia or Canada and the applicant has achieved a
44 passing score on a licensing examination administered in a state or territory of
45 the United States or the District of Columbia and no license issued to the
46 applicant has been disciplined in any state or territory of the United States or the
47 District of Columbia [and the applicant is certified in the applicant's area of
48 specialty by the American Board of Medical Specialties, the American Osteopathic
49 Association, or other certifying agency approved by the board by rule].

50 3. If the board waives the provisions of this section, then the license
51 issued to the applicant may be limited or restricted to the applicant's board
52 specialty. The board shall not be permitted to favor any particular school or
53 system of healing.

54 4. If an applicant has not actively engaged in the practice of clinical
55 medicine or held a teaching or faculty position in a medical or osteopathic school
56 approved by the American Medical Association, the Liaison Committee on Medical
57 Education, or the American Osteopathic Association for any two years in the
58 three-year period immediately preceding the filing of his or her application for
59 licensure, the board may require successful completion of another examination,
60 continuing medical education, or further training before issuing a permanent
61 license. The board shall adopt rules to prescribe the form and manner of such
62 reexamination, continuing medical education, and training.

334.285. 1. For purposes of this section, the following terms shall

2 **mean:**

3 (1) "Continuing medical education", continued postgraduate
4 medical education intended to provide medical professionals with
5 knowledge of new developments in their field;

6 (2) "Maintenance of certification", any process requiring periodic
7 recertification examinations to maintain specialty medical board
8 certification;

9 (3) "Maintenance of licensure", the Federation of State Medical
10 Boards' proprietary framework for physician license renewal including
11 additional periodic testing other than continuing medical education;

12 (4) "Specialty medical board certification", certification by a
13 board that specializes in one particular area of medicine and typically
14 requires additional and more strenuous exams than state board of
15 registration for the healing arts requirements to practice medicine.

16 2. The state shall not require any form of maintenance of
17 licensure as a condition of physician licensure including requiring any
18 form of maintenance of licensure tied to maintenance of
19 certification. Current requirements including continuing medical
20 education shall suffice to demonstrate professional competency.

21 3. The state shall not require any form of specialty medical board
22 certification or any maintenance of certification to practice medicine
23 within the state. There shall be no discrimination by the state board
24 of registration for the healing arts or any other state agency against
25 physicians who do not maintain specialty medical board certification
26 including recertification.

334.1200. PURPOSE

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

9 This compact is designed to achieve the following objectives:

10 1. Increase public access to physical therapy services by
11 providing for the mutual recognition of other member state licenses;

12 2. Enhance the states' ability to protect the public's health and

13 safety;

14 3. Encourage the cooperation of member states in regulating
15 multistate physical therapy practice;

16 4. Support spouses of relocating military members;

17 5. Enhance the exchange of licensure, investigative, and
18 disciplinary information between member states; and

19 6. Allow a remote state to hold a provider of services with a
20 compact privilege in that state accountable to that state's practice
21 standards.

334.1203. DEFINITIONS

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

4 1. "Active Duty Military" means full-time duty status in the active
5 uniformed service of the United States, including members of the
6 National Guard and Reserve on active duty orders pursuant to 10 U.S.C.
7 Section 1209 and 1211.

8 2. "Adverse Action" means disciplinary action taken by a physical
9 therapy licensing board based upon misconduct, unacceptable
10 performance, or a combination of both.

11 3. "Alternative Program" means a nondisciplinary monitoring or
12 practice remediation process approved by a physical therapy licensing
13 board. This includes, but is not limited to, substance abuse issues.

14 4. "Compact privilege" means the authorization granted by a
15 remote state to allow a licensee from another member state to practice
16 as a physical therapist or work as a physical therapist assistant in the
17 remote state under its laws and rules. The practice of physical therapy
18 occurs in the member state where the patient/client is located at the
19 time of the patient/client encounter.

20 5. "Continuing competence" means a requirement, as a condition
21 of license renewal, to provide evidence of participation in, and/or
22 completion of, educational and professional activities relevant to
23 practice or area of work.

24 6. "Data system" means a repository of information about
25 licensees, including examination, licensure, investigative, compact
26 privilege, and adverse action.

27 7. "Encumbered license" means a license that a physical therapy
28 licensing board has limited in any way.

29 8. "Executive Board" means a group of directors elected or
30 appointed to act on behalf of, and within the powers granted to them
31 by, the commission.

32 9. "Home state" means the member state that is the licensee's
33 primary state of residence.

34 10. "Investigative information" means information, records, and
35 documents received or generated by a physical therapy licensing board
36 pursuant to an investigation.

37 11. "Jurisprudence requirement" means the assessment of an
38 individual's knowledge of the laws and rules governing the practice of
39 physical therapy in a state.

40 12. "Licensee" means an individual who currently holds an
41 authorization from the state to practice as a physical therapist or to
42 work as a physical therapist assistant.

43 13. "Member state" means a state that has enacted the compact.

44 14. "Party state" means any member state in which a licensee
45 holds a current license or compact privilege or is applying for a license
46 or compact privilege.

47 15. "Physical therapist" means an individual who is licensed by
48 a state to practice physical therapy.

49 16. "Physical therapist assistant" means an individual who is
50 licensed/certified by a state and who assists the physical therapist in
51 selected components of physical therapy.

52 17. "Physical therapy", "physical therapy practice", and "the
53 practice of physical therapy" mean the care and services provided by
54 or under the direction and supervision of a licensed physical therapist.

55 18. "Physical therapy compact commission" or "commission"
56 means the national administrative body whose membership consists of
57 all states that have enacted the compact.

58 19. "Physical therapy licensing board" or "licensing board" means
59 the agency of a state that is responsible for the licensing and regulation
60 of physical therapists and physical therapist assistants.

61 20. "Remote state" means a member state other than the home
62 state, where a licensee is exercising or seeking to exercise the compact
63 privilege.

64 21. "Rule" means a regulation, principle, or directive
65 promulgated by the commission that has the force of law.

66 22. "State" means any state, commonwealth, district, or territory
67 of the United States of America that regulates the practice of physical
68 therapy.

334.1206. STATE PARTICIPATION IN THE COMPACT

2 A. To participate in the compact, a state must:

3 1. Participate fully in the commission's data system, including
4 using the commission's unique identifier as defined in rules;

5 2. Have a mechanism in place for receiving and investigating
6 complaints about licensees;

7 3. Notify the commission, in compliance with the terms of the
8 compact and rules, of any adverse action or the availability of
9 investigative information regarding a licensee;

10 4. Fully implement a criminal background check requirement,
11 within a time frame established by rule, by receiving the results of the
12 Federal Bureau of Investigation record search on criminal background
13 checks and use the results in making licensure decisions in accordance
14 with section 334.1206.B.;

15 5. Comply with the rules of the commission;

16 6. Utilize a recognized national examination as a requirement for
17 licensure pursuant to the rules of the commission; and

18 7. Have continuing competence requirements as a condition for
19 license renewal.

20 B. Upon adoption of sections 334.1200 to 334.1233, the member
21 state shall have the authority to obtain biometric-based information
22 from each physical therapy licensure applicant and submit this
23 information to the Federal Bureau of Investigation for a criminal
24 background check in accordance with 28 U.S.C. Section 534 and 42
25 U.S.C. Section 14616.

26 C. A member state shall grant the compact privilege to a licensee
27 holding a valid unencumbered license in another member state in
28 accordance with the terms of the compact and rules.

29 D. Member states may charge a fee for granting a compact
30 privilege.

334.1209. COMPACT PRIVILEGE

2 A. To exercise the compact privilege under the terms and
3 provisions of the compact, the licensee shall:

4 1. Hold a license in the home state;

- 5 **2. Have no encumbrance on any state license;**
- 6 **3. Be eligible for a compact privilege in any member state in**
7 **accordance with section 334.1209D, G and H;**
- 8 **4. Have not had any adverse action against any license or**
9 **compact privilege within the previous 2 years;**
- 10 **5. Notify the commission that the licensee is seeking the compact**
11 **privilege within a remote state(s);**
- 12 **6. Pay any applicable fees, including any state fee, for the**
13 **compact privilege;**
- 14 **7. Meet any jurisprudence requirements established by the**
15 **remote state(s) in which the licensee is seeking a compact privilege;**
16 **and**
- 17 **8. Report to the commission adverse action taken by any**
18 **nonmember state within thirty days from the date the adverse action**
19 **is taken.**
- 20 **B. The compact privilege is valid until the expiration date of the**
21 **home license. The licensee must comply with the requirements of**
22 **section 334.1209A to maintain the compact privilege in the remote state.**
- 23 **C. A licensee providing physical therapy in a remote state under**
24 **the compact privilege shall function within the laws and regulations of**
25 **the remote state.**
- 26 **D. A licensee providing physical therapy in a remote state is**
27 **subject to that state's regulatory authority. A remote state may, in**
28 **accordance with due process and that state's laws, remove a licensee's**
29 **compact privilege in the remote state for a specific period of time,**
30 **impose fines, and/or take any other necessary actions to protect the**
31 **health and safety of its citizens. The licensee is not eligible for a**
32 **compact privilege in any state until the specific time for removal has**
33 **passed and all fines are paid.**
- 34 **E. If a home state license is encumbered, the licensee shall lose**
35 **the compact privilege in any remote state until the following occur:**
- 36 **1. The home state license is no longer encumbered; and**
- 37 **2. Two years have elapsed from the date of the adverse action.**
- 38 **F. Once an encumbered license in the home state is restored to**
39 **good standing, the licensee must meet the requirements of section**
40 **334.1209A to obtain a compact privilege in any remote state.**
- 41 **G. If a licensee's compact privilege in any remote state is**

42 removed, the individual shall lose the compact privilege in any remote
43 state until the following occur:

44 1. The specific period of time for which the compact privilege
45 was removed has ended;

46 2. All fines have been paid; and

47 3. Two years have elapsed from the date of the adverse action.

48 H. Once the requirements of section 334.1209G have been met,
49 the license must meet the requirements in section 334.1209A to obtain
50 a compact privilege in a remote state.

334.1212. ACTIVE DUTY MILITARY PERSONNEL OR THEIR 2 SPOUSES

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

6 A. Home of record;

7 B. Permanent change of station (PCS); or

8 C. State of current residence if it is different than the PCS state
9 or home of record.

334.1215. ADVERSE ACTIONS

2 A. A home state shall have exclusive power to impose adverse
3 action against a license issued by the home state.

4 B. A home state may take adverse action based on the
5 investigative information of a remote state, so long as the home state
6 follows its own procedures for imposing adverse action.

7 C. Nothing in this compact shall override a member state's
8 decision that participation in an alternative program may be used in
9 lieu of adverse action and that such participation shall remain
10 nonpublic if required by the member state's laws. Member states must
11 require licensees who enter any alternative programs in lieu of
12 discipline to agree not to practice in any other member state during the
13 term of the alternative program without prior authorization from such
14 other member state.

15 D. Any member state may investigate actual or alleged violations
16 of the statutes and rules authorizing the practice of physical therapy
17 in any other member state in which a physical therapist or physical
18 therapist assistant holds a license or compact privilege.

19 E. A remote state shall have the authority to:

20 1. Take adverse actions as set forth in section 334.1209.D. against
21 a licensee's compact privilege in the state;

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

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

36 **F. Joint Investigations**

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

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

**334.1218. ESTABLISHMENT OF THE PHYSICAL THERAPY
2 COMPACT COMMISSION.**

3 **A. The compact member states hereby create and establish a
4 joint public agency known as the physical therapy compact commission:**

5 1. The commission is an instrumentality of the compact states.

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

12 3. Nothing in this compact shall be construed to be a waiver of
13 sovereign immunity.

14 **B. Membership, Voting, and Meetings**

15 **1. Each member state shall have and be limited to one delegate**
16 **selected by that member state's licensing board.**

17 **2. The delegate shall be a current member of the licensing board,**
18 **who is a physical therapist, physical therapist assistant, public**
19 **member, or the board administrator.**

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

22 **4. The member state board shall fill any vacancy occurring in the**
23 **commission.**

24 **5. Each delegate shall be entitled to one vote with regard to the**
25 **promulgation of rules and creation of bylaws and shall otherwise have**
26 **an opportunity to participate in the business and affairs of the**
27 **commission.**

28 **6. A delegate shall vote in person or by such other means as**
29 **provided in the bylaws. The bylaws may provide for delegates'**
30 **participation in meetings by telephone or other means of**
31 **communication.**

32 **7. The commission shall meet at least once during each calendar**
33 **year. Additional meetings shall be held as set forth in the bylaws.**

34 **C. The commission shall have the following powers and duties:**

35 **1. Establish the fiscal year of the commission;**

36 **2. Establish bylaws;**

37 **3. Maintain its financial records in accordance with the bylaws;**

38 **4. Meet and take such actions as are consistent with the**
39 **provisions of this compact and the bylaws;**

40 **5. Promulgate uniform rules to facilitate and coordinate**
41 **implementation and administration of this compact. The rules shall**
42 **have the force and effect of law and shall be binding in all member**
43 **states;**

44 **6. Bring and prosecute legal proceedings or actions in the name**
45 **of the commission, provided that the standing of any state physical**
46 **therapy licensing board to sue or be sued under applicable law shall**
47 **not be affected;**

48 **7. Purchase and maintain insurance and bonds;**

49 **8. Borrow, accept, or contract for services of personnel,**
50 **including, but not limited to, employees of a member state;**

51 **9. Hire employees, elect or appoint officers, fix compensation,**
52 **define duties, grant such individuals appropriate authority to carry out**
53 **the purposes of the compact, and to establish the commission's**
54 **personnel policies and programs relating to conflicts of interest,**
55 **qualifications of personnel, and other related personnel matters;**

56 **10. Accept any and all appropriate donations and grants of**
57 **money, equipment, supplies, materials and services, and to receive,**
58 **utilize and dispose of the same; provided that at all times the**
59 **commission shall avoid any appearance of impropriety and/or conflict**
60 **of interest;**

61 **11. Lease, purchase, accept appropriate gifts or donations of, or**
62 **otherwise to own, hold, improve or use, any property, real, personal or**
63 **mixed; provided that at all times the commission shall avoid any**
64 **appearance of impropriety;**

65 **12. Sell, convey, mortgage, pledge, lease, exchange, abandon, or**
66 **otherwise dispose of any property real, personal, or mixed;**

67 **13. Establish a budget and make expenditures;**

68 **14. Borrow money;**

69 **15. Appoint committees, including standing committees**
70 **comprised of members, state regulators, state legislators or their**
71 **representatives, and consumer representatives, and such other**
72 **interested persons as may be designated in this compact and the**
73 **bylaws;**

74 **16. Provide and receive information from, and cooperate with,**
75 **law enforcement agencies;**

76 **17. Establish and elect an executive board; and**

77 **18. Perform such other functions as may be necessary or**
78 **appropriate to achieve the purposes of this compact consistent with the**
79 **state regulation of physical therapy licensure and practice.**

80 **D. The Executive Board**

81 **The executive board shall have the power to act on behalf of the**
82 **commission according to the terms of this compact.**

83 **1. The executive board shall be comprised of nine members:**

84 **a. Seven voting members who are elected by the commission**
85 **from the current membership of the commission;**

86 **b. One ex officio, nonvoting member from the recognized**
87 **national physical therapy professional association; and**

88 c. One ex officio, nonvoting member from the recognized
89 membership organization of the physical therapy licensing boards.

90 2. The ex officio members will be selected by their respective
91 organizations.

92 3. The commission may remove any member of the executive
93 board as provided in bylaws.

94 4. The executive board shall meet at least annually.

95 5. The executive board shall have the following duties and
96 responsibilities:

97 a. Recommend to the entire commission changes to the rules or
98 bylaws, changes to this compact legislation, fees paid by compact
99 member states such as annual dues, and any commission compact fee
100 charged to licensees for the compact privilege;

101 b. Ensure compact administration services are appropriately
102 provided, contractual or otherwise;

103 c. Prepare and recommend the budget;

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

105 e. Monitor compact compliance of member states and provide
106 compliance reports to the commission;

107 f. Establish additional committees as necessary; and

108 g. Other duties as provided in rules or bylaws.

109 E. Meetings of the Commission

110 1. All meetings shall be open to the public, and public notice of
111 meetings shall be given in the same manner as required under the
112 rulemaking provisions in section 334.1224.

113 2. The commission or the executive board or other committees
114 of the commission may convene in a closed, nonpublic meeting if the
115 commission or executive board or other committees of the commission
116 must discuss:

117 a. Noncompliance of a member state with its obligations under
118 the compact;

119 b. The employment, compensation, discipline or other matters,
120 practices or procedures related to specific employees or other matters
121 related to the commission's internal personnel practices and
122 procedures;

123 c. Current, threatened, or reasonably anticipated litigation;

124 d. Negotiation of contracts for the purchase, lease, or sale of

125 **goods, services, or real estate;**

126 **e. Accusing any person of a crime or formally censuring any**
127 **person;**

128 **f. Disclosure of trade secrets or commercial or financial**
129 **information that is privileged or confidential;**

130 **g. Disclosure of information of a personal nature where**
131 **disclosure would constitute a clearly unwarranted invasion of personal**
132 **privacy;**

133 **h. Disclosure of investigative records compiled for law**
134 **enforcement purposes;**

135 **i. Disclosure of information related to any investigative reports**
136 **prepared by or on behalf of or for use of the commission or other**
137 **committee charged with responsibility of investigation or**
138 **determination of compliance issues pursuant to the compact; or**

139 **j. Matters specifically exempted from disclosure by federal or**
140 **member state statute.**

141 **3. If a meeting, or portion of a meeting, is closed pursuant to this**
142 **provision, the commission's legal counsel or designee shall certify that**
143 **the meeting may be closed and shall reference each relevant exempting**
144 **provision.**

145 **4. The commission shall keep minutes that fully and clearly**
146 **describe all matters discussed in a meeting and shall provide a full and**
147 **accurate summary of actions taken, and the reasons therefore,**
148 **including a description of the views expressed. All documents**
149 **considered in connection with an action shall be identified in such**
150 **minutes. All minutes and documents of a closed meeting shall remain**
151 **under seal, subject to release by a majority vote of the commission or**
152 **order of a court of competent jurisdiction.**

153 **F. Financing of the Commission**

154 **1. The commission shall pay, or provide for the payment of, the**
155 **reasonable expenses of its establishment, organization, and ongoing**
156 **activities.**

157 **2. The commission may accept any and all appropriate revenue**
158 **sources, donations, and grants of money, equipment, supplies,**
159 **materials, and services.**

160 **3. The commission may levy on and collect an annual assessment**
161 **from each member state or impose fees on other parties to cover the**

162 cost of the operations and activities of the commission and its staff,
163 which must be in a total amount sufficient to cover its annual budget
164 as approved each year for which revenue is not provided by other
165 sources. The aggregate annual assessment amount shall be allocated
166 based upon a formula to be determined by the commission, which shall
167 promulgate a rule binding upon all member states.

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

172 5. The commission shall keep accurate accounts of all receipts
173 and disbursements. The receipts and disbursements of the commission
174 shall be subject to the audit and accounting procedures established
175 under its bylaws. However, all receipts and disbursements of funds
176 handled by the commission shall be audited yearly by a certified or
177 licensed public accountant, and the report of the audit shall be
178 included in and become part of the annual report of the commission.

179 **G. Qualified Immunity, Defense, and Indemnification**

180 1. The members, officers, executive director, employees and
181 representatives of the commission shall be immune from suit and
182 liability, either personally or in their official capacity, for any claim for
183 damage to or loss of property or personal injury or other civil liability
184 caused by or arising out of any actual or alleged act, error or omission
185 that occurred, or that the person against whom the claim is made had
186 a reasonable basis for believing occurred within the scope of
187 commission employment, duties or responsibilities; provided that
188 nothing in this paragraph shall be construed to protect any such person
189 from suit and/or liability for any damage, loss, injury, or liability
190 caused by the intentional or willful or wanton misconduct of that
191 person.

192 2. The commission shall defend any member, officer, executive
193 director, employee or representative of the commission in any civil
194 action seeking to impose liability arising out of any actual or alleged
195 act, error, or omission that occurred within the scope of commission
196 employment, duties, or responsibilities, or that the person against
197 whom the claim is made had a reasonable basis for believing occurred
198 within the scope of commission employment, duties, or responsibilities;

199 provided that nothing herein shall be construed to prohibit that person
200 from retaining his or her own counsel; and provided further, that the
201 actual or alleged act, error, or omission did not result from that
202 person's intentional or willful or wanton misconduct.

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

334.1221. DATA SYSTEM

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

6 B. Notwithstanding any other provision of state law to the
7 contrary, a member state shall submit a uniform data set to the data
8 system on all individuals to whom this compact is applicable as
9 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. Nonconfidential information related to alternative program
14 participation;
- 15 5. Any denial of application for licensure, and the reason(s) for
16 such denial; and
- 17 6. Other information that may facilitate the administration of
18 this compact, as determined by the rules of the commission.

19 C. Investigative information pertaining to a licensee in any
20 member state will only be available to other party states.

21 D. The commission shall promptly notify all member states of
22 any adverse action taken against a licensee or an individual applying
23 for a license. Adverse action information pertaining to a licensee in

24 any member state will be available to any other member state.

25 E. Member states contributing information to the data system
26 may designate information that may not be shared with the public
27 without the express permission of the contributing state.

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

334.1224. RULEMAKING

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

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

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

13 D. Prior to promulgation and adoption of a final rule or rules by
14 the commission, and at least thirty days in advance of the meeting at
15 which the rule will be considered and voted upon, the commission shall
16 file a notice of proposed rulemaking:

17 1. On the website of the commission or other publicly accessible
18 platform; and

19 2. On the website of each member state physical therapy
20 licensing board or other publicly accessible platform or the publication
21 in which each state would otherwise publish proposed rules.

22 E. The notice of proposed rulemaking shall include:

23 1. The proposed time, date, and location of the meeting in which
24 the rule will be considered and voted upon;

25 2. The text of the proposed rule or amendment and the reason for
26 the proposed rule;

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

29 4. The manner in which interested persons may submit notice to
30 the commission of their intention to attend the public hearing and any

31 written comments.

32 F. Prior to adoption of a proposed rule, the commission shall
33 allow persons to submit written data, facts, opinions, and arguments,
34 which shall be made available to the public.

35 G. The commission shall grant an opportunity for a public
36 hearing before it adopts a rule or amendment if a hearing is requested
37 by:

- 38 1. At least twenty-five persons;
- 39 2. A state or federal governmental subdivision or agency; or
- 40 3. An association having at least twenty-five members.

41 H. If a hearing is held on the proposed rule or amendment, the
42 commission shall publish the place, time, and date of the scheduled
43 public hearing. If the hearing is held via electronic means, the
44 commission shall publish the mechanism for access to the electronic
45 hearing.

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

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

53 3. All hearings will be recorded. A copy of the recording will be
54 made available on request.

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

58 I. Following the scheduled hearing date, or by the close of
59 business on the scheduled hearing date if the hearing was not held, the
60 commission shall consider all written and oral comments received.

61 J. If no written notice of intent to attend the public hearing by
62 interested parties is received, the commission may proceed with
63 promulgation of the proposed rule without a public hearing.

64 K. The commission shall, by majority vote of all members, take
65 final action on the proposed rule and shall determine the effective date
66 of the rule, if any, based on the rulemaking record and the full text of
67 the rule.

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

- 76 1. Meet an imminent threat to public health, safety, or welfare;
- 77 2. Prevent a loss of commission or member state funds;
- 78 3. Meet a deadline for the promulgation of an administrative rule
79 that is established by federal law or rule; or
- 80 4. Protect public health and safety.

81 M. The commission or an authorized committee of the
82 commission may direct revisions to a previously adopted rule or
83 amendment for purposes of correcting typographical errors, errors in
84 format, errors in consistency, or grammatical errors. Public notice of
85 any revisions shall be posted on the website of the commission. The
86 revision shall be subject to challenge by any person for a period of
87 thirty days after posting. The revision may be challenged only on
88 grounds that the revision results in a material change to a rule. A
89 challenge shall be made in writing, and delivered to the chair of the
90 commission prior to the end of the notice period. If no challenge is
91 made, the revision will take effect without further action. If the
92 revision is challenged, the revision may not take effect without the
93 approval of the commission.

2 334.1227. OVERSIGHT, DISPUTE RESOLUTION, AND 2 ENFORCEMENT

3 A. Oversight

4 1. The executive, legislative, and judicial branches of state
5 government in each member state shall enforce this compact and take
6 all actions necessary and appropriate to effectuate the compact's
7 purposes and intent. The provisions of this compact and the rules
8 promulgated hereunder shall have standing as statutory law.

9 2. All courts shall take judicial notice of the compact and the
10 rules in any judicial or administrative proceeding in a member state
11 pertaining to the subject matter of this compact which may affect the

12 powers, responsibilities or actions of the commission.

13 3. The commission shall be entitled to receive service of process
14 in any such proceeding, and shall have standing to intervene in such
15 a proceeding for all purposes. Failure to provide service of process to
16 the commission shall render a judgment or order void as to the
17 commission, this compact, or promulgated rules.

18 **B. Default, Technical Assistance, and Termination**

19 1. If the commission determines that a member state has
20 defaulted in the performance of its obligations or responsibilities under
21 this compact or the promulgated rules, the commission shall:

22 a. Provide written notice to the defaulting state and other
23 member states of the nature of the default, the proposed means of
24 curing the default and/or any other action to be taken by the
25 commission; and

26 b. Provide remedial training and specific technical assistance
27 regarding the default.

28 2. If a state in default fails to cure the default, the defaulting
29 state may be terminated from the compact upon an affirmative vote of
30 a majority of the member states, and all rights, privileges and benefits
31 conferred by this compact may be terminated on the effective date of
32 termination. A cure of the default does not relieve the offending state
33 of obligations or liabilities incurred during the period of default.

34 3. Termination of membership in the compact shall be imposed
35 only after all other means of securing compliance have been
36 exhausted. Notice of intent to suspend or terminate shall be given by
37 the commission to the governor, the majority and minority leaders of
38 the defaulting state's legislature, and each of the member states.

39 4. A state that has been terminated is responsible for all
40 assessments, obligations, and liabilities incurred through the effective
41 date of termination, including obligations that extend beyond the
42 effective date of termination.

43 5. The commission shall not bear any costs related to a state that
44 is found to be in default or that has been terminated from the compact,
45 unless agreed upon in writing between the commission and the
46 defaulting state.

47 6. The defaulting state may appeal the action of the commission
48 by petitioning the United States District Court for the District of

49 Columbia or the federal district where the commission has its principal
50 offices. The prevailing member shall be awarded all costs of such
51 litigation, including reasonable attorney's fees.

52 **C. Dispute Resolution**

53 1. Upon request by a member state, the commission shall attempt
54 to resolve disputes related to the compact that arise among member
55 states and between member and nonmember states.

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

58 **D. Enforcement**

59 1. The commission, in the reasonable exercise of its discretion,
60 shall enforce the provisions and rules of this compact.

61 2. By majority vote, the commission may initiate legal action in
62 the United States District Court for the District of Columbia or the
63 federal district where the commission has its principal offices against
64 a member state in default to enforce compliance with the provisions of
65 the compact and its promulgated rules and bylaws. The relief sought
66 may include both injunctive relief and damages. In the event judicial
67 enforcement is necessary, the prevailing member shall be awarded all
68 costs of such litigation, including reasonable attorney's fees.

69 3. The remedies herein shall not be the exclusive remedies of the
70 commission. The commission may pursue any other remedies available
71 under federal or state law.

**334.1230. DATE OF IMPLEMENTATION OF THE INTERSTATE
2 COMMISSION FOR PHYSICAL THERAPY PRACTICE AND ASSOCIATED
3 RULES, WITHDRAWAL, AND AMENDMENT**

4 **A.** The compact shall come into effect on the date on which the
5 compact statute is enacted into law in the tenth member state. The
6 provisions, which become effective at that time, shall be limited to the
7 powers granted to the commission relating to assembly and the
8 promulgation of rules. Thereafter, the commission shall meet and
9 exercise rulemaking powers necessary to the implementation and
10 administration of the compact.

11 **B.** Any state that joins the compact subsequent to the
12 commission's initial adoption of the rules shall be subject to the rules
13 as they exist on the date on which the compact becomes law in that
14 state. Any rule that has been previously adopted by the commission

15 shall have the full force and effect of law on the day the compact
16 becomes law in that state.

17 C. Any member state may withdraw from this compact by
18 enacting a statute repealing the same.

19 1. A member state's withdrawal shall not take effect until six
20 months after enactment of the repealing statute.

21 2. Withdrawal shall not affect the continuing requirement of the
22 withdrawing state's physical therapy licensing board to comply with
23 the investigative and adverse action reporting requirements of this act
24 prior to the effective date of withdrawal.

25 D. Nothing contained in this compact shall be construed to
26 invalidate or prevent any physical therapy licensure agreement or
27 other cooperative arrangement between a member state and a
28 nonmember state that does not conflict with the provisions of this
29 compact.

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

334.1233. CONSTRUCTION AND SEVERABILITY

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

335.203. 1. There is hereby established the "Nursing Education Incentive
2 Program" within the [department of higher education] **state board of nursing.**

3 2. Subject to appropriation **and board disbursement**, grants shall be
4 awarded through the nursing education incentive program to eligible institutions
5 of higher education based on criteria jointly determined by the board and the
6 department **of higher education.** Grant award amounts shall not exceed one

7 hundred fifty thousand dollars. No campus shall receive more than one grant per
8 year.

9 3. To be considered for a grant, an eligible institution of higher education
10 shall offer a program of nursing that meets the predetermined category and area
11 of need as established by the board and the department under subsection 4 of this
12 section.

13 4. The board and the department shall determine categories and areas of
14 need for designating grants to eligible institutions of higher education. In
15 establishing categories and areas of need, the board and department may consider
16 criteria including, but not limited to:

17 (1) Data generated from licensure renewal data and the department of
18 health and senior services; and

19 (2) National nursing statistical data and trends that have identified
20 nursing shortages.

21 5. The [department] **board** shall be the administrative agency responsible
22 for implementation of the program established under sections 335.200 to 335.203,
23 and shall promulgate reasonable rules for the exercise of its functions and the
24 effectuation of the purposes of sections 335.200 to 335.203. The [department]
25 **board** shall, by rule, prescribe the form, time, and method of filing applications
26 and shall supervise the processing of such applications.

27 6. Any rule or portion of a rule, as that term is defined in section 536.010,
28 that is created under the authority delegated in this section shall become effective
29 only if it complies with and is subject to all of the provisions of chapter 536 and,
30 if applicable, section 536.028. This section and chapter 536 are nonseverable and
31 if any of the powers vested with the general assembly pursuant to chapter 536 to
32 review, to delay the effective date, or to disapprove and annul a rule are
33 subsequently held unconstitutional, then the grant of rulemaking authority and
34 any rule proposed or adopted after August 28, 2011, shall be invalid and void.

335.360. 1. The party states find that:

2 (1) **The health and safety of the public are affected by the degree**
3 **of compliance with and the effectiveness of enforcement activities**
4 **related to state nurse licensure laws;**

5 (2) **Violations of nurse licensure and other laws regulating the**
6 **practice of nursing may result in injury or harm to the public;**

7 (3) **The expanded mobility of nurses and the use of advanced**
8 **communication technologies as part of our nation's health care delivery**

9 system require greater coordination and cooperation among states in
10 the areas of nurse licensure and regulation;

11 (4) New practice modalities and technology make compliance
12 with individual state nurse licensure laws difficult and complex;

13 (5) The current system of duplicative licensure for nurses
14 practicing in multiple states is cumbersome and redundant to both
15 nurses and states; and

16 (6) Uniformity of nurse licensure requirements throughout the
17 states promotes public safety and public health benefits.

18 2. The general purposes of this compact are to:

19 (1) Facilitate the states' responsibility to protect the public's
20 health and safety;

21 (2) Ensure and encourage the cooperation of party states in the
22 areas of nurse licensure and regulation;

23 (3) Facilitate the exchange of information between party states
24 in the areas of nurse regulation, investigation, and adverse actions;

25 (4) Promote compliance with the laws governing the practice of
26 nursing in each jurisdiction;

27 (5) Invest all party states with the authority to hold a nurse
28 accountable for meeting all state practice laws in the state in which the
29 patient is located at the time care is rendered through the mutual
30 recognition of party state licenses;

31 (6) Decrease redundancies in the consideration and issuance of
32 nurse licenses; and

33 (7) Provide opportunities for interstate practice by nurses who
34 meet uniform licensure requirements.

335.365. As used in this compact, the following terms shall mean:

2 (1) "Adverse action", any administrative, civil, equitable, or
3 criminal action permitted by a state's laws which is imposed by a
4 licensing board or other authority against a nurse, including actions
5 against an individual's license or multistate licensure privilege such as
6 revocation, suspension, probation, monitoring of the licensee, limitation
7 on the licensee's practice, or any other encumbrance on licensure
8 affecting a nurse's authorization to practice, including issuance of a
9 cease and desist action;

10 (2) "Alternative program", a nondisciplinary monitoring program
11 approved by a licensing board;

12 (3) "Coordinated licensure information system", an integrated
13 process for collecting, storing, and sharing information on nurse
14 licensure and enforcement activities related to nurse licensure laws
15 that is administered by a nonprofit organization composed of and
16 controlled by licensing boards;

17 (4) "Current significant investigative information":

18 (a) Investigative information that a licensing board, after a
19 preliminary inquiry that includes notification and an opportunity for
20 the nurse to respond, if required by state law, has reason to believe is
21 not groundless and, if proved true, would indicate more than a minor
22 infraction; or

23 (b) Investigative information that indicates that the nurse
24 represents an immediate threat to public health and safety, regardless
25 of whether the nurse has been notified and had an opportunity to
26 respond;

27 (5) "Encumbrance", a revocation or suspension of, or any
28 limitation on, the full and unrestricted practice of nursing imposed by
29 a licensing board;

30 (6) "Home state", the party state which is the nurse's primary
31 state of residence;

32 (7) "Licensing board", a party state's regulatory body responsible
33 for issuing nurse licenses;

34 (8) "Multistate license", a license to practice as a registered
35 nurse, "RN", or a licensed practical or vocational nurse, "LPN" or "VN",
36 issued by a home state licensing board that authorizes the licensed
37 nurse to practice in all party states under a multistate licensure
38 privilege;

39 (9) "Multistate licensure privilege", a legal authorization
40 associated with a multistate license permitting the practice of nursing
41 as either an RN, LPN, or VN in a remote state;

42 (10) "Nurse", an RN, LPN, or VN, as those terms are defined by
43 each party state's practice laws;

44 (11) "Party state", any state that has adopted this compact;

45 (12) "Remote state", a party state, other than the home state;

46 (13) "Single-state license", a nurse license issued by a party state
47 that authorizes practice only within the issuing state and does not
48 include a multistate licensure privilege to practice in any other party

49 state;

50 (14) "State", a state, territory, or possession of the United States
51 and the District of Columbia;

52 (15) "State practice laws", a party state's laws, rules, and
53 regulations that govern the practice of nursing, define the scope of
54 nursing practice, and create the methods and grounds for imposing
55 discipline. State practice laws do not include requirements necessary
56 to obtain and retain a license, except for qualifications or requirements
57 of the home state.

335.370. 1. A multistate license to practice registered or licensed
2 practical or vocational nursing issued by a home state to a resident in
3 that state shall be recognized by each party state as authorizing a
4 nurse to practice as a registered nurse, "RN", or as a licensed practical
5 or vocational nurse, "LPN" or "VN", under a multistate licensure
6 privilege, in each party state.

7 2. A state must implement procedures for considering the
8 criminal history records of applicants for initial multistate license or
9 licensure by endorsement. Such procedures shall include the
10 submission of fingerprints or other biometric-based information by
11 applicants for the purpose of obtaining an applicant's criminal history
12 record information from the Federal Bureau of Investigation and the
13 agency responsible for retaining that state's criminal records.

14 3. Each party state shall require the following for an applicant
15 to obtain or retain a multistate license in the home state:

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

18 (2) (a) Has graduated or is eligible to graduate from a licensing
19 board-approved RN or LPN or VN prelicensure education program; or

20 (b) Has graduated from a foreign RN or LPN or VN prelicensure
21 education program that has been approved by the authorized
22 accrediting body in the applicable country and has been verified by an
23 independent credentials review agency to be comparable to a licensing
24 board-approved prelicensure education program;

25 (3) Has, if a graduate of a foreign prelicensure education
26 program not taught in English or if English is not the individual's
27 native language, successfully passed an English proficiency
28 examination that includes the components of reading, speaking,

29 writing, and listening;

30 (4) Has successfully passed an NCLEX-RN or NCLEX-PN
31 examination or recognized predecessor, as applicable;

32 (5) Is eligible for or holds an active, unencumbered license;

33 (6) Has submitted, in connection with an application for initial
34 licensure or licensure by endorsement, fingerprints or other biometric
35 data for the purpose of obtaining criminal history record information
36 from the Federal Bureau of Investigation and the agency responsible
37 for retaining that state's criminal records;

38 (7) Has not been convicted or found guilty, or has entered into
39 an agreed disposition, of a felony offense under applicable state or
40 federal criminal law;

41 (8) Has not been convicted or found guilty, or has entered into
42 an agreed disposition, of a misdemeanor offense related to the practice
43 of nursing as determined on a case-by-case basis;

44 (9) Is not currently enrolled in an alternative program;

45 (10) Is subject to self-disclosure requirements regarding current
46 participation in an alternative program; and

47 (11) Has a valid United States Social Security number.

48 4. All party states shall be authorized, in accordance with
49 existing state due process law, to take adverse action against a nurse's
50 multistate licensure privilege such as revocation, suspension,
51 probation, or any other action that affects a nurse's authorization to
52 practice under a multistate licensure privilege, including cease and
53 desist actions. If a party state takes such action, it shall promptly
54 notify the administrator of the coordinated licensure information
55 system. The administrator of the coordinated licensure information
56 system shall promptly notify the home state of any such actions by
57 remote states.

58 5. A nurse practicing in a party state shall comply with the state
59 practice laws of the state in which the client is located at the time
60 service is provided. The practice of nursing is not limited to patient
61 care, but shall include all nursing practice as defined by the state
62 practice laws of the party state in which the client is located. The
63 practice of nursing in a party state under a multistate licensure
64 privilege shall subject a nurse to the jurisdiction of the licensing board,
65 the courts, and the laws of the party state in which the client is located

66 at the time service is provided.

67 6. Individuals not residing in a party state shall continue to be
68 able to apply for a party state's single-state license as provided under
69 the laws of each party state. However, the single-state license granted
70 to these individuals shall not be recognized as granting the privilege
71 to practice nursing in any other party state. Nothing in this compact
72 shall affect the requirements established by a party state for the
73 issuance of a single-state license.

74 7. Any nurse holding a home state multistate license on the
75 effective date of this compact may retain and renew the multistate
76 license issued by the nurse's then current home state, provided that:

77 (1) A nurse who changes primary state of residence after this
78 compact's effective date shall meet all applicable requirements as
79 provided in subsection 3 of this section to obtain a multistate license
80 from a new home state;

81 (2) A nurse who fails to satisfy the multistate licensure
82 requirements in subsection 3 of this section due to a disqualifying
83 event occurring after this compact's effective date shall be ineligible to
84 retain or renew a multistate license, and the nurse's multistate license
85 shall be revoked or deactivated in accordance with applicable rules
86 adopted by the Interstate Commission of Nurse Licensure Compact
87 Administrators commission.

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

10 2. A nurse shall hold a multistate license, issued by the home
11 state, in only one party state at a time.

12 3. If a nurse changes primary state of residence by moving
13 between two party states, the nurse shall apply for licensure in the new
14 home state, and the multistate license issued by the prior home state
15 shall be deactivated in accordance with applicable rules adopted by the

16 **commission.**

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

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

23 **4. If a nurse changes primary state of residence by moving from**
24 **a party state to a non-party state, the multistate license issued by the**
25 **prior home state shall convert to a single-state license, valid only in the**
26 **former home state.**

335.380. 1. In addition to the other powers conferred by state
2 **law, a licensing board shall have the authority to:**

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

5 **(a) Only the home state shall have the power to take adverse**
6 **action against a nurse's license issued by the home state;**

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

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

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

22 **(4) Issue subpoenas for both hearings and investigations that**
23 **require the attendance and testimony of witnesses as well as the**
24 **production of evidence. Subpoenas issued by a licensing board in a**
25 **party state for the attendance and testimony of witnesses or the**
26 **production of evidence from another party state shall be enforced in**

27 the latter state by any court of competent jurisdiction according to the
28 practice and procedure of that court applicable to subpoenas issued in
29 proceedings pending before it. The issuing authority shall pay any
30 witness fees, travel expenses, mileage, and other fees required by the
31 service statutes of the state in which the witnesses or evidence are
32 located;

33 (5) Obtain and submit, for each nurse licensure applicant,
34 fingerprint or other biometric based information to the Federal Bureau
35 of Investigation for criminal background checks, receive the results of
36 the Federal Bureau of Investigation record search on criminal
37 background checks, and use the results in making licensure decisions;

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

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

44 2. If adverse action is taken by the home state against a nurse's
45 multistate license, the nurse's multistate licensure privilege to practice
46 in all other party states shall be deactivated until all encumbrances
47 have been removed from the multistate license. All home state
48 disciplinary orders that impose adverse action against a nurse's
49 multistate license shall include a statement that the nurse's multistate
50 licensure privilege is deactivated in all party states during the
51 pendency of the order.

52 3. Nothing in this compact shall override a party state's decision
53 that participation in an alternative program may be used in lieu of
54 adverse action. The home state licensing board shall deactivate the
55 multistate licensure privilege under the multistate license of any nurse
56 for the duration of the nurse's participation in an alternative program.

335.385. 1. All party states shall participate in a coordinated
2 licensure information system of all licensed registered nurses, "RNs",
3 and licensed practical or vocational nurses, "LPNs" or "VNs". This
4 system shall include information on the licensure and disciplinary
5 history of each nurse, as submitted by party states, to assist in the
6 coordination of nurse licensure and enforcement efforts.

7 2. The commission, in consultation with the administrator of the

8 coordinated licensure information system, shall formulate necessary
9 and proper procedures for the identification, collection, and exchange
10 of information under this compact.

11 3. All licensing boards shall promptly report to the coordinated
12 licensure information system any adverse action, any current
13 significant investigative information, denials of applications with the
14 reasons for such denials, and nurse participation in alternative
15 programs known to the licensing board regardless of whether such
16 participation is deemed nonpublic or confidential under state law.

17 4. Current significant investigative information and
18 participation in nonpublic or confidential alternative programs shall
19 be transmitted through the coordinated licensure information system
20 only to party state licensing boards.

21 5. Notwithstanding any other provision of law, all party state
22 licensing boards contributing information to the coordinated licensure
23 information system may designate information that shall not be shared
24 with non-party states or disclosed to other entities or individuals
25 without the express permission of the contributing state.

26 6. Any personally identifiable information obtained from the
27 coordinated licensure information system by a party state licensing
28 board shall not be shared with non-party states or disclosed to other
29 entities or individuals except to the extent permitted by the laws of the
30 party state contributing the information.

31 7. Any information contributed to the coordinated licensure
32 information system that is subsequently required to be expunged by the
33 laws of the party state contributing that information shall also be
34 expunged from the coordinated licensure information system.

35 8. The compact administrator of each party state shall furnish a
36 uniform data set to the compact administrator of each other party
37 state, which shall include, at a minimum:

- 38 (1) Identifying information;
39 (2) Licensure data;
40 (3) Information related to alternative program participation; and
41 (4) Other information that may facilitate the administration of
42 this compact, as determined by commission rules.

43 9. The compact administrator of a party state shall provide all
44 investigative documents and information requested by another party

45 state.

335.390. 1. The party states hereby create and establish a joint
2 public entity known as the "Interstate Commission of Nurse Licensure
3 Compact Administrators".

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

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

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

13 2. (1) Each party state shall have and be limited to one
14 administrator. The head of the state licensing board or designee shall
15 be the administrator of this compact for each party state. Any
16 administrator may be removed or suspended from office as provided by
17 the law of the state from which the administrator is appointed. Any
18 vacancy occurring in the commission shall be filled in accordance with
19 the laws of the party state in which the vacancy exists.

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

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

30 (4) All meetings shall be open to the public, and public notice of
31 meetings shall be given in the same manner as required under the
32 rulemaking provisions in section 335.395.

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

35 (a) Noncompliance of a party state with its obligations under this
36 compact;

37 **(b) The employment, compensation, discipline, or other**
38 **personnel matters, practices, or procedures related to specific**
39 **employees, or other matters related to the commission's internal**
40 **personnel practices and procedures;**

41 **(c) Current, threatened, or reasonably anticipated litigation;**

42 **(d) Negotiation of contracts for the purchase or sale of goods,**
43 **services, or real estate;**

44 **(e) Accusing any person of a crime or formally censuring any**
45 **person;**

46 **(f) Disclosure of trade secrets or commercial or financial**
47 **information that is privileged or confidential;**

48 **(g) Disclosure of information of a personal nature where**
49 **disclosure would constitute a clearly unwarranted invasion of personal**
50 **privacy;**

51 **(h) Disclosure of investigatory records compiled for law**
52 **enforcement purposes;**

53 **(i) Disclosure of information related to any reports prepared by**
54 **or on behalf of the commission for the purpose of investigation of**
55 **compliance with this compact; or**

56 **(j) Matters specifically exempted from disclosure by federal or**
57 **state statute.**

58 **(6) If a meeting, or portion of a meeting, is closed pursuant to**
59 **subdivision (5) of this subsection, the commission's legal counsel or**
60 **designee shall certify that the meeting shall be closed and shall**
61 **reference each relevant exempting provision. The commission shall**
62 **keep minutes that fully and clearly describe all matters discussed in a**
63 **meeting and shall provide a full and accurate summary of actions**
64 **taken, and the reasons therefor, including a description of the views**
65 **expressed. All documents considered in connection with an action shall**
66 **be identified in such minutes. All minutes and documents of a closed**
67 **meeting shall remain under seal, subject to release by a majority vote**
68 **of the commission or order of a court of competent jurisdiction.**

69 **3. The commission shall, by a majority vote of the administrators,**
70 **prescribe bylaws or rules to govern its conduct as may be necessary or**
71 **appropriate to carry out the purposes and exercise the powers of this**
72 **compact including, but not limited to:**

73 **(1) Establishing the fiscal year of the commission;**

- 74 **(2) Providing reasonable standards and procedures:**
75 **(a) For the establishment and meetings of other committees; and**
76 **(b) Governing any general or specific delegation of any authority**
77 **or function of the commission;**
- 78 **(3) Providing reasonable procedures for calling and conducting**
79 **meetings of the commission, ensuring reasonable advance notice of all**
80 **meetings and providing an opportunity for attendance of such meetings**
81 **by interested parties, with enumerated exceptions designed to protect**
82 **the public's interest, the privacy of individuals, and proprietary**
83 **information, including trade secrets. The commission may meet in**
84 **closed session only after a majority of the administrators vote to close**
85 **a meeting in whole or in part. As soon as practicable, the commission**
86 **must make public a copy of the vote to close the meeting revealing the**
87 **vote of each administrator, with no proxy votes allowed;**
- 88 **(4) Establishing the titles, duties, and authority and reasonable**
89 **procedures for the election of the officers of the commission;**
- 90 **(5) Providing reasonable standards and procedures for the**
91 **establishment of the personnel policies and programs of the**
92 **commission. Notwithstanding any civil service or other similar laws of**
93 **any party state, the bylaws shall exclusively govern the personnel**
94 **policies and programs of the commission; and**
- 95 **(6) Providing a mechanism for winding up the operations of the**
96 **commission and the equitable disposition of any surplus funds that may**
97 **exist after the termination of this compact after the payment or**
98 **reserving of all of its debts and obligations.**
- 99 **4. The commission shall publish its bylaws and rules, and any**
100 **amendments thereto, in a convenient form on the website of the**
101 **commission.**
- 102 **5. The commission shall maintain its financial records in**
103 **accordance with the bylaws.**
- 104 **6. The commission shall meet and take such actions as are**
105 **consistent with the provisions of this compact and the bylaws.**
- 106 **7. The commission shall have the following powers:**
- 107 **(1) To promulgate uniform rules to facilitate and coordinate**
108 **implementation and administration of this compact. The rules shall**
109 **have the force and effect of law and shall be binding in all party states;**
110 **(2) To bring and prosecute legal proceedings or actions in the**

111 name of the commission; provided that, the standing of any licensing
112 board to sue or be sued under applicable law shall not be affected;

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

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

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

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

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

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

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

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

138 (11) To borrow money;

139 (12) To appoint committees, including advisory committees
140 comprised of administrators, state nursing regulators, state legislators
141 or their representatives, consumer representatives, and other such
142 interested persons;

143 (13) To provide and receive information from, and to cooperate
144 with, law enforcement agencies;

145 (14) To adopt and use an official seal; and

146 (15) To perform such other functions as may be necessary or
147 appropriate to achieve the purposes of this compact consistent with the

148 state regulation of nurse licensure and practice.

149 8. (1) The commission shall pay, or provide for the payment of,
150 the reasonable expenses of its establishment, organization, and ongoing
151 activities.

152 (2) The commission may also levy on and collect an annual
153 assessment from each party state to cover the cost of its operations,
154 activities, and staff in its annual budget as approved each year. The
155 aggregate annual assessment amount, if any, shall be allocated based
156 upon a formula to be determined by the commission, which shall
157 promulgate a rule that is binding upon all party states.

158 (3) The commission shall not incur obligations of any kind prior
159 to securing the funds adequate to meet the same; nor shall the
160 commission pledge the credit of any of the party states, except by and
161 with the authority of such party state.

162 (4) The commission shall keep accurate accounts of all receipts
163 and disbursements. The receipts and disbursements of the commission
164 shall be subject to the audit and accounting procedures established
165 under its bylaws. However, all receipts and disbursements of funds
166 handled by the commission shall be audited yearly by a certified or
167 licensed public accountant, and the report of the audit shall be
168 included in and become part of the annual report of the commission.

169 9. (1) The administrators, officers, executive director, employees,
170 and representatives of the commission shall be immune from suit and
171 liability, either personally or in their official capacity, for any claim for
172 damage to or loss of property, personal injury, or other civil liability
173 caused by or arising out of any actual or alleged act, error, or omission
174 that occurred, or that the person against whom the claim is made had
175 a reasonable basis for believing occurred, within the scope of
176 commission employment, duties, or responsibilities; provided that,
177 nothing in this paragraph shall be construed to protect any such person
178 from suit or liability for any damage, loss, injury, or liability caused by
179 the intentional, willful, or wanton misconduct of that person.

180 (2) The commission shall defend any administrator, officer,
181 executive director, employee, or representative of the commission in
182 any civil action seeking to impose liability arising out of any actual or
183 alleged act, error, or omission that occurred within the scope of
184 commission employment, duties, or responsibilities, or that the person

185 against whom the claim is made had a reasonable basis for believing
186 occurred within the scope of commission employment, duties, or
187 responsibilities; provided that, nothing herein shall be construed to
188 prohibit that person from retaining his or her own counsel; and
189 provided further that the actual or alleged act, error, or omission did
190 not result from that person's intentional, willful, or wanton misconduct.

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

335.395. 1. The commission shall exercise its rulemaking powers
2 pursuant to the criteria set forth in this section and the rules adopted
3 thereunder. Rules and amendments shall become binding as of the date
4 specified in each rule or amendment and shall have the same force and
5 effect as provisions of this compact.

6 2. Rules or amendments to the rules shall be adopted at a regular
7 or special meeting of the commission.

8 3. Prior to promulgation and adoption of a final rule or rules by
9 the commission, and at least sixty days in advance of the meeting at
10 which the rule shall be considered and voted upon, the commission
11 shall file a notice of proposed rulemaking:

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

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

15 4. The notice of proposed rulemaking shall include:

16 (1) The proposed time, date, and location of the meeting in which
17 the rule shall be considered and voted upon;

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

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

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

25 **5. Prior to adoption of a proposed rule, the commission shall**
26 **allow persons to submit written data, facts, opinions, and arguments,**
27 **which shall be made available to the public.**

28 **6. The commission shall grant an opportunity for a public**
29 **hearing before it adopts a rule or amendment.**

30 **7. The commission shall publish the place, time, and date of the**
31 **scheduled public hearing.**

32 **(1) Hearings shall be conducted in a manner providing each**
33 **person who wishes to comment a fair and reasonable opportunity to**
34 **comment orally or in writing. All hearings shall be recorded, and a**
35 **copy shall be made available upon request.**

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

39 **8. If no one appears at the public hearing, the commission may**
40 **proceed with promulgation of the proposed rule.**

41 **9. Following the scheduled hearing date, or by the close of**
42 **business on the scheduled hearing date if the hearing was not held, the**
43 **commission shall consider all written and oral comments received.**

44 **10. The commission shall, by majority vote of all administrators,**
45 **take final action on the proposed rule and shall determine the effective**
46 **date of the rule, if any, based on the rulemaking record and the full**
47 **text of the rule.**

48 **11. Upon determination that an emergency exists, the**
49 **commission may consider and adopt an emergency rule without prior**
50 **notice, opportunity for comment, or hearing; provided that, the usual**
51 **rulemaking procedures provided in this compact and in this section**
52 **shall be retroactively applied to the rule as soon as reasonably possible,**
53 **in no event later than ninety days after the effective date of the**
54 **rule. For the purposes of this provision, an emergency rule is one that**
55 **shall be adopted immediately in order to:**

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

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

58 **(3) Meet a deadline for the promulgation of an administrative**

59 rule that is required by federal law or rule.

60 12. The commission may direct revisions to a previously adopted
61 rule or amendment for purposes of correcting typographical errors,
62 errors in format, errors in consistency, or grammatical errors. Public
63 notice of any revisions shall be posted on the website of the
64 commission. The revision shall be subject to challenge by any person
65 for a period of thirty days after posting. The revision shall be
66 challenged only on grounds that the revision results in a material
67 change to a rule. A challenge shall be made in writing and delivered
68 to the commission prior to the end of the notice period. If no challenge
69 is made, the revision shall take effect without further action. If the
70 revision is challenged, the revision shall not take effect without the
71 approval of the commission.

 335.400. 1. (1) Each party state shall enforce this compact and
2 take all actions necessary and appropriate to effectuate this compact's
3 purposes and intent.

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

10 2. (1) If the commission determines that a party state has
11 defaulted in the performance of its obligations or responsibilities under
12 this compact or the promulgated rules, the commission shall:

13 (a) Provide written notice to the defaulting state and other party
14 states of the nature of the default, the proposed means of curing the
15 default, or any other action to be taken by the commission; and

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

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

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

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

35 **(5) The commission shall not bear any costs related to a state**
36 **that is found to be in default or whose membership in this compact has**
37 **been terminated unless agreed upon in writing between the commission**
38 **and the defaulting state.**

39 **(6) The defaulting state may appeal the action of the commission**
40 **by petitioning the United States District Court for the District of**
41 **Columbia or the federal district in which the commission has its**
42 **principal offices. The prevailing party shall be awarded all costs of**
43 **such litigation, including reasonable attorneys' fees.**

44 **3. (1) Upon request by a party state, the commission shall**
45 **attempt to resolve disputes related to the compact that arise among**
46 **party states and between party and non-party states.**

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

49 **(3) In the event the commission cannot resolve disputes among**
50 **party states arising under this compact:**

51 **(a) The party states shall submit the issues in dispute to an**
52 **arbitration panel, which shall be comprised of individuals appointed by**
53 **the compact administrator in each of the affected party states and an**
54 **individual mutually agreed upon by the compact administrators of all**
55 **the party states involved in the dispute.**

56 **(b) The decision of a majority of the arbitrators shall be final**
57 **and binding.**

58 **4. (1) The commission, in the reasonable exercise of its**
59 **discretion, shall enforce the provisions and rules of this compact.**

60 **(2) By majority vote, the commission may initiate legal action in**
61 **the United States District Court for the District of Columbia or the**

62 federal district in which the commission has its principal offices
63 against a party state that is in default to enforce compliance with the
64 provisions of this compact and its promulgated rules and bylaws. The
65 relief sought may include both injunctive relief and damages. In the
66 event judicial enforcement is necessary, the prevailing party shall be
67 awarded all costs of such litigation, including reasonable attorneys'
68 fees.

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

335.405. 1. This compact shall become effective and binding on
2 the earlier of the date of legislative enactment of this compact into law
3 by no less than twenty-six states or December 31, 2018. All party states
4 to this compact that also were parties to the prior Nurse Licensure
5 Compact superseded by this compact "prior compact" shall be deemed
6 to have withdrawn from said prior compact within six months after the
7 effective date of this compact.

8 2. Each party state to this compact shall continue to recognize
9 a nurse's multistate licensure privilege to practice in that party state
10 issued under the prior compact until such party state has withdrawn
11 from the prior compact.

12 3. Any party state may withdraw from this compact by enacting
13 a statute repealing the same. A party state's withdrawal shall not take
14 effect until six months after enactment of the repealing statute.

15 4. A party state's withdrawal or termination shall not affect the
16 continuing requirement of the withdrawing or terminated state's
17 licensing board to report adverse actions and significant investigations
18 occurring prior to the effective date of such withdrawal or termination.

19 5. Nothing contained in this compact shall be construed to
20 invalidate or prevent any nurse licensure agreement or other
21 cooperative arrangement between a party state and a non-party state
22 that is made in accordance with the other provisions of this compact.

23 6. This compact may be amended by the party states. No
24 amendment to this compact shall become effective and binding upon
25 the party states unless and until it is enacted into the laws of all party
26 states.

27 7. Representatives of non-party states to this compact shall be

28 invited to participate in the activities of the commission on a nonvoting
29 basis prior to the adoption of this compact by all states.

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

335.415. 1. The term "head of the nurse licensing board" as
2 referred to in section 335.390 of this compact shall mean the executive
3 director of the Missouri state board of nursing.

4 2. This compact is designed to facilitate the regulation of nurses,
5 and does not relieve employers from complying with statutorily
6 imposed obligations.

7 3. This compact does not supersede existing state labor laws.

336.020. It shall be unlawful for any person to practice, to attempt to
2 practice, or to offer to practice optometry, or to be employed by any person,
3 corporation, partnership, association, or other entity that practice or attempts to
4 practice without a license as an optometrist issued by the board. Nothing in this
5 section shall be construed to prohibit a person licensed or registered under
6 chapter 334 whose license is in good standing from acting within the scope of his
7 or her practice or a person licensed as an optometrist in any state to serve as an
8 expert witness in a civil, criminal, or administrative proceeding **or optometry**
9 **students in any accredited optometry school from training in the**
10 **practice of optometry under the direct supervision of a physician**
11 **licensed under chapter 334 or an optometrist licensed under chapter**
12 **336.**

338.202. 1. Notwithstanding any other provision of law to the
2 contrary, unless the prescriber has specified on the prescription that
3 dispensing a prescription for a maintenance medication in an initial
4 amount followed by periodic refills is medically necessary, a

5 pharmacist may exercise his or her professional judgment to dispense
6 varying quantities of maintenance medication per fill up to the total
7 number of dosage units as authorized by the prescriber on the original
8 prescription, including any refills. Dispensing of the maintenance
9 medication based on refills authorized by the prescriber on the
10 prescription shall be limited to no more than a ninety-day supply of the
11 medication, and the maintenance medication shall have been previously
12 prescribed to the patient for at least a three-month period.

13 2. For the purposes of this section "maintenance medication" is
14 a medication prescribed for chronic, long-term conditions and is taken
15 on a regular, recurring basis, except that it shall not include controlled
16 substances as defined in section 195.010.

376.1237. 1. Each health carrier or health benefit plan that offers or
2 issues health benefit plans which are delivered, issued for delivery, continued, or
3 renewed in this state on or after January 1, 2014, and that provides coverage for
4 prescription eye drops shall provide coverage for the refilling of an eye drop
5 prescription prior to the last day of the prescribed dosage period without regard
6 to a coverage restriction for early refill of prescription renewals as long as the
7 prescribing health care provider authorizes such early refill, and the health
8 carrier or the health benefit plan is notified.

9 2. For the purposes of this section, health carrier and health benefit plan
10 shall have the same meaning as defined in section 376.1350.

11 3. The coverage required by this section shall not be subject to any greater
12 deductible or co-payment than other similar health care services provided by the
13 health benefit plan.

14 4. The provisions of this section shall not apply to a supplemental
15 insurance policy, including a life care contract, accident-only policy, specified
16 disease policy, hospital policy providing a fixed daily benefit only, Medicare
17 supplement policy, long-term care policy, short-term major medical policies of six
18 months' or less duration, or any other supplemental policy as determined by the
19 director of the department of insurance, financial institutions and professional
20 registration.

21 5. The provisions of this section shall terminate on January 1, [2017]
22 **2020**.

630.175. 1. No person admitted on a voluntary or involuntary basis to
2 any mental health facility or mental health program in which people are civilly

3 detained pursuant to chapter 632 and no patient, resident or client of a
4 residential facility or day program operated, funded or licensed by the department
5 shall be subject to physical or chemical restraint, isolation or seclusion unless it
6 is determined by the head of the facility, the attending licensed physician, or in
7 the circumstances specifically set forth in this section, by an advanced practice
8 registered nurse in a collaborative practice arrangement, **or a physician**
9 **assistant or an assistant physician with a supervision agreement**, with
10 the attending licensed physician that the chosen intervention is imminently
11 necessary to protect the health and safety of the patient, resident, client or others
12 and that it provides the least restrictive environment. An advanced practice
13 registered nurse in a collaborative practice arrangement, **or a physician**
14 **assistant or an assistant physician with a supervision agreement**, with
15 the attending licensed physician may make a determination that the chosen
16 intervention is necessary for patients, residents, or clients of facilities or
17 programs operated by the department, in hospitals as defined in section 197.020
18 that only provide psychiatric care and in dedicated psychiatric units of general
19 acute care hospitals as hospitals are defined in section 197.020. Any
20 determination made by the advanced practice registered nurse, **physician**
21 **assistant, or assistant physician** shall be documented as required in
22 subsection 2 of this section and reviewed in person by the attending licensed
23 physician if the episode of restraint is to extend beyond:

24 (1) Four hours duration in the case of a person under eighteen years of
25 age;

26 (2) Eight hours duration in the case of a person eighteen years of age or
27 older; or

28 (3) For any total length of restraint lasting more than four hours duration
29 in a twenty-four-hour period in the case of a person under eighteen years of age
30 or beyond eight hours duration in the case of a person eighteen years of age or
31 older in a twenty-four-hour period.

32 The review shall occur prior to the time limit specified under subsection 6 of this
33 section and shall be documented by the licensed physician under subsection 2 of
34 this section.

35 2. Every use of physical or chemical restraint, isolation or seclusion and
36 the reasons therefor shall be made a part of the clinical record of the patient,
37 resident or client under the signature of the head of the facility, or the attending
38 licensed physician, or the advanced practice registered nurse in a collaborative

39 practice arrangement, **or a physician assistant or an assistant physician**
40 **with a supervision agreement**, with the attending licensed physician.

41 3. Physical or chemical restraint, isolation or seclusion shall not be
42 considered standard treatment or habilitation and shall cease as soon as the
43 circumstances causing the need for such action have ended.

44 4. The use of security escort devices, including devices designed to restrict
45 physical movement, which are used to maintain safety and security and to
46 prevent escape during transport outside of a facility shall not be considered
47 physical restraint within the meaning of this section. Individuals who have been
48 civilly detained under sections 632.300 to 632.475 may be placed in security
49 escort devices when transported outside of the facility if it is determined by the
50 head of the facility, or the attending licensed physician, or the advanced practice
51 registered nurse in a collaborative practice arrangement, **or a physician**
52 **assistant or an assistant physician with a supervision agreement**, with
53 the attending licensed physician that the use of security escort devices is
54 necessary to protect the health and safety of the patient, resident, client, or other
55 persons or is necessary to prevent escape. Individuals who have been civilly
56 detained under sections 632.480 to 632.513 or committed under chapter 552 shall
57 be placed in security escort devices when transported outside of the facility unless
58 it is determined by the head of the facility, or the attending licensed physician,
59 or the advanced practice registered nurse in a collaborative practice arrangement,
60 **or a physician assistant or an assistant physician with a supervision**
61 **agreement**, with the attending licensed physician that security escort devices
62 are not necessary to protect the health and safety of the patient, resident, client,
63 or other persons or is not necessary to prevent escape.

64 5. Extraordinary measures employed by the head of the facility to ensure
65 the safety and security of patients, residents, clients, and other persons during
66 times of natural or man-made disasters shall not be considered restraint,
67 isolation, or seclusion within the meaning of this section.

68 6. Orders issued under this section by the advanced practice registered
69 nurse in a collaborative practice arrangement, **or a physician assistant or an**
70 **assistant physician with a supervision agreement**, with the attending
71 licensed physician shall be reviewed in person by the attending licensed physician
72 of the facility within twenty-four hours or the next regular working day of the
73 order being issued, and such review shall be documented in the clinical record of
74 the patient, resident, or client.

75 7. For purposes of this subsection, "division" shall mean the division of
76 developmental disabilities. Restraint or seclusion shall not be used in
77 habilitation centers or community programs that serve persons with
78 developmental disabilities that are operated or funded by the division unless such
79 procedure is part of an emergency intervention system approved by the division
80 and is identified in such person's individual support plan. Direct-care staff that
81 serve persons with developmental disabilities in habilitation centers or
82 community programs operated or funded by the division shall be trained in an
83 emergency intervention system approved by the division when such emergency
84 intervention system is identified in a consumer's individual support plan.

[335.300. 1. The party states find that:

2 (1) The health and safety of the public are affected by the
3 degree of compliance with and the effectiveness of enforcement
4 activities related to state nurse licensure laws;

5 (2) Violations of nurse licensure and other laws regulating
6 the practice of nursing may result in injury or harm to the public;

7 (3) The expanded mobility of nurses and the use of
8 advanced communication technologies as part of our nation's health
9 care delivery system require greater coordination and cooperation
10 among states in the areas of nurse licensure and regulation;

11 (4) New practice modalities and technology make
12 compliance with individual state nurse licensure laws difficult and
13 complex;

14 (5) The current system of duplicative licensure for nurses
15 practicing in multiple states is cumbersome and redundant to both
16 nurses and states.

17 2. The general purposes of this compact are to:

18 (1) Facilitate the states' responsibility to protect the
19 public's health and safety;

20 (2) Ensure and encourage the cooperation of party states in
21 the areas of nurse licensure and regulation;

22 (3) Facilitate the exchange of information between party
23 states in the areas of nurse regulation, investigation, and adverse
24 actions;

25 (4) Promote compliance with the laws governing the
26 practice of nursing in each jurisdiction;

27 (5) Invest all party states with the authority to hold a nurse
28 accountable for meeting all state practice laws in the state in which
29 the patient is located at the time care is rendered through the
30 mutual recognition of party state licenses.]

2 [335.305. As used in this compact, the following terms shall
mean:

3 (1) "Adverse action", a home or remote state action;

4 (2) "Alternative program", a voluntary, nondisciplinary
5 monitoring program approved by a nurse licensing board;

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

11 (4) "Current significant investigative information":

12 (a) Investigative information that a licensing board, after
13 a preliminary inquiry that includes notification and an opportunity
14 for the nurse to respond if required by state law, has reason to
15 believe is not groundless and, if proved true, would indicate more
16 than a minor infraction; or

17 (b) Investigative information that indicates that the nurse
18 represents an immediate threat to public health and safety
19 regardless of whether the nurse has been notified and had an
20 opportunity to respond;

21 (5) "Home state", the party state that is the nurse's primary
22 state of residence;

23 (6) "Home state action", any administrative, civil, equitable,
24 or criminal action permitted by the home state's laws that are
25 imposed on a nurse by the home state's licensing board or other
26 authority including actions against an individual's license such as:
27 revocation, suspension, probation, or any other action affecting a
28 nurse's authorization to practice;

29 (7) "Licensing board", a party state's regulatory body
30 responsible for issuing nurse licenses;

31 (8) "Multistate licensure privilege", current, official
32 authority from a remote state permitting the practice of nursing as

33 either a registered nurse or a licensed practical/vocational nurse in
34 such party state. All party states have the authority, in accordance
35 with existing state due process law, to take actions against the
36 nurse's privilege such as: revocation, suspension, probation, or any
37 other action that affects a nurse's authorization to practice;

38 (9) "Nurse", a registered nurse or licensed/vocational nurse,
39 as those terms are defined by each state's practice laws;

40 (10) "Party state", any state that has adopted this compact;

41 (11) "Remote state", a party state, other than the home
42 state:

43 (a) Where a patient is located at the time nursing care is
44 provided; or

45 (b) In the case of the practice of nursing not involving a
46 patient, in such party state where the recipient of nursing practice
47 is located;

48 (12) "Remote state action":

49 (a) Any administrative, civil, equitable, or criminal action
50 permitted by a remote state's laws which are imposed on a nurse
51 by the remote state's licensing board or other authority including
52 actions against an individual's multistate licensure privilege to
53 practice in the remote state; and

54 (b) Cease and desist and other injunctive or equitable
55 orders issued by remote states or the licensing boards thereof;

56 (13) "State", a state, territory, or possession of the United
57 States, the District of Columbia, or the Commonwealth of Puerto
58 Rico;

59 (14) "State practice laws", those individual party's state
60 laws and regulations that govern the practice of nursing, define the
61 scope of nursing practice, and create the methods and grounds for
62 imposing discipline. State practice laws does not include the initial
63 qualifications for licensure or requirements necessary to obtain and
64 retain a license, except for qualifications or requirements of the
65 home state.]

2 [335.310. 1. A license to practice registered nursing issued
3 by a home state to a resident in that state will be recognized by
each party state as authorizing a multistate licensure privilege to

4 practice as a registered nurse in such party state. A license to
5 practice licensed practical/vocational nursing issued by a home
6 state to a resident in that state will be recognized by each party
7 state as authorizing a multistate licensure privilege to practice as
8 a licensed practical/vocational nurse in such party state. In order
9 to obtain or retain a license, an applicant must meet the home
10 state's qualifications for licensure and license renewal as well as
11 all other applicable state laws.

12 2. Party states may, in accordance with state due process
13 laws, limit or revoke the multistate licensure privilege of any nurse
14 to practice in their state and may take any other actions under
15 their applicable state laws necessary to protect the health and
16 safety of their citizens. If a party state takes such action, it shall
17 promptly notify the administrator of the coordinated licensure
18 information system. The administrator of the coordinated licensure
19 information system shall promptly notify the home state of any
20 such actions by remote states.

21 3. Every nurse practicing in a party state must comply with
22 the state practice laws of the state in which the patient is located
23 at the time care is rendered. In addition, the practice of nursing
24 is not limited to patient care, but shall include all nursing practice
25 as defined by the state practice laws of a party state. The practice
26 of nursing will subject a nurse to the jurisdiction of the nurse
27 licensing board and the courts, as well as the laws, in that party
28 state.

29 4. This compact does not affect additional requirements
30 imposed by states for advanced practice registered
31 nursing. However, a multistate licensure privilege to practice
32 registered nursing granted by a party state shall be recognized by
33 other party states as a license to practice registered nursing if one
34 is required by state law as a precondition for qualifying for
35 advanced practice registered nurse authorization.

36 5. Individuals not residing in a party state shall continue
37 to be able to apply for nurse licensure as provided for under the
38 laws of each party state. However, the license granted to these
39 individuals will not be recognized as granting the privilege to

40 practice nursing in any other party state unless explicitly agreed
41 to by that party state.]

[335.315. 1. Upon application for a license, the licensing
2 board in a party state shall ascertain, through the coordinated
3 licensure information system, whether the applicant has ever held,
4 or is the holder of, a license issued by any other state, whether
5 there are any restrictions on the multistate licensure privilege, and
6 whether any other adverse action by any state has been taken
7 against the license.

8 2. A nurse in a party state shall hold licensure in only one
9 party state at a time, issued by the home state.

10 3. A nurse who intends to change primary state of residence
11 may apply for licensure in the new home state in advance of such
12 change. However, new licenses will not be issued by a party state
13 until after a nurse provides evidence of change in primary state of
14 residence satisfactory to the new home state's licensing board.

15 4. When a nurse changes primary state of residence by:

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

19 (2) Moving from a nonparty state to a party state, and
20 obtains a license from the new home state, the individual state
21 license issued by the nonparty state is not affected and will remain
22 in full force if so provided by the laws of the nonparty state;

23 (3) Moving from a party state to a nonparty state, the
24 license issued by the prior home state converts to an individual
25 state license, valid only in the former home state, without the
26 multistate licensure privilege to practice in other party states.]

[335.320. In addition to the general provisions described in
2 article III of this compact, the following provisions apply:

3 (1) The licensing board of a remote state shall promptly
4 report to the administrator of the coordinated licensure information
5 system any remote state actions including the factual and legal
6 basis for such action, if known. The licensing board of a remote
7 state shall also promptly report any significant current
8 investigative information yet to result in a remote state

9 action. The administrator of the coordinated licensure information
10 system shall promptly notify the home state of any such reports;

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

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

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

29 (5) The home state may take adverse action based on the
30 factual findings of the remote state, so long as each state follows its
31 own procedures for imposing such adverse action;

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

[335.325. Notwithstanding any other powers, party state
2 nurse licensing boards shall have the authority to:

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

6 (2) Issue subpoenas for both hearings and investigations

7 which require the attendance and testimony of witnesses, and the
8 production of evidence. Subpoenas issued by a nurse licensing
9 board in a party state for the attendance and testimony of
10 witnesses, and/or the production of evidence from another party
11 state, shall be enforced in the latter state by any court of
12 competent jurisdiction, according to the practice and procedure of
13 that court applicable to subpoenas issued in proceedings pending
14 before it. The issuing authority shall pay any witness fees, travel
15 expenses, mileage, and other fees required by the service statutes
16 of the state where the witnesses and evidence are located;

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

19 (4) Promulgate uniform rules and regulations as provided
20 for in subsection 3 of section 335.335.]

[335.330. 1. All party states shall participate in a
2 cooperative effort to create a coordinated database of all licensed
3 registered nurses and licensed practical/vocational nurses. This
4 system will include information on the licensure and disciplinary
5 history of each nurse, as contributed by party states, to assist in
6 the coordination of nurse licensure and enforcement efforts.

7 2. Notwithstanding any other provision of law, all party
8 states' licensing boards shall promptly report adverse actions,
9 actions against multistate licensure privileges, any current
10 significant investigative information yet to result in adverse action,
11 denials of applications, and the reasons for such denials to the
12 coordinated licensure information system.

13 3. Current significant investigative information shall be
14 transmitted through the coordinated licensure information system
15 only to party state licensing boards.

16 4. Notwithstanding any other provision of law, all party
17 states' licensing boards contributing information to the coordinated
18 licensure information system may designate information that may
19 not be shared with nonparty states or disclosed to other entities or
20 individuals without the express permission of the contributing
21 state.

22 5. Any personally identifiable information obtained by a

23 party state's licensing board from the coordinated licensure
24 information system may not be shared with nonparty states or
25 disclosed to other entities or individuals except to the extent
26 permitted by the laws of the party state contributing the
27 information.

28 6. Any information contributed to the coordinated licensure
29 information system that is subsequently required to be expunged
30 by the laws of the party state contributing that information shall
31 also be expunged from the coordinated licensure information
32 system.

33 7. The compact administrators, acting jointly with each
34 other and in consultation with the administrator of the coordinated
35 licensure information system, shall formulate necessary and proper
36 procedures for the identification, collection, and exchange of
37 information under this compact.]

[335.335. 1. The head of the nurse licensing board, or
2 his/her designee, of each party state shall be the administrator of
3 this compact for his/her state.

4 2. The compact administrator of each party shall furnish to
5 the compact administrator of each other party state any
6 information and documents including, but not limited to, a uniform
7 data set of investigations, identifying information, licensure data,
8 and disclosable alternative program participation information to
9 facilitate the administration of this compact.

10 3. Compact administrators shall have the authority to
11 develop uniform rules to facilitate and coordinate implementation
12 of this compact. These uniform rules shall be adopted by party
13 states, under the authority invested under subsection 4 of section
14 335.325.]

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

1 [335.345. 1. This compact shall enter into force and become
2 effective as to any state when it has been enacted into the laws of
3 that state. Any party state may withdraw from this compact by
4 enacting a statute repealing the same, but no such withdrawal
5 shall take effect until six months after the withdrawing state has
6 given notice of the withdrawal to the executive heads of all other
7 party states.

8 2. No withdrawal shall affect the validity or applicability by
9 the licensing boards of states remaining party to the compact of
10 any report of adverse action occurring prior to the withdrawal.

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

16 4. This compact may be amended by the party states. No
17 amendment to this compact shall become effective and binding
18 upon the party states unless and until it is enacted into the laws
19 of all party states.]

2 [335.350. 1. This compact shall be liberally construed so as
3 to effectuate the purposes thereof. The provisions of this compact
4 shall be severable and if any phrase, clause, sentence, or provision
5 of this compact is declared to be contrary to the constitution of any
6 party state or of the United States or the applicability thereof to
7 any government, agency, person, or circumstance is held invalid,
8 the validity of the remainder of this compact and the applicability
9 thereof to any government, agency, person, or circumstance shall
10 not be affected thereby. If this compact shall be held contrary to
11 the constitution of any state party thereto, the compact shall
12 remain in full force and effect as to the remaining party states and
13 in full force and effect as to the party state affected as to all
14 severable matters.

15 2. In the event party states find a need for settling disputes
16 arising under this compact:

17 (1) The party states may submit the issues in dispute to an
arbitration panel which will be comprised of an individual

18 appointed by the compact administrator in the home state, an
19 individual appointed by the compact administrator in the remote
20 states involved, and an individual mutually agreed upon by the
21 compact administrators of all the party states involved in the
22 dispute;

23 (2) The decision of a majority of the arbitrators shall be
24 final and binding.]

[335.355. 1. The term "head of the nurse licensing board"
2 as referred to in article VIII of this compact shall mean the
3 executive director of the Missouri state board of nursing.

4 2. A person who is extended the privilege to practice in this
5 state pursuant to the nurse licensure compact is subject to
6 discipline by the board, as set forth in this chapter, for violation of
7 this chapter or the rules and regulations promulgated herein. A
8 person extended the privilege to practice in this state pursuant to
9 the nurse licensure compact shall be subject to adhere to all
10 requirements of this chapter, as if such person were originally
11 licensed in this state.

12 3. Sections 335.300 to 335.355 are applicable only to nurses
13 whose home states are determined by the Missouri state board of
14 nursing to have licensure requirements that are substantially
15 equivalent or more stringent than those of Missouri.

16 4. This compact is designed to facilitate the regulation of
17 nurses, and does not relieve employers from complying with
18 statutorily imposed obligations.

19 5. This compact does not supercede existing state labor
20 laws.]

Section B. The repeal of sections 335.300, 335.305, 335.310, 335.315,
2 335.320, 335.325, 335.330, 335.335, 335.340, 335.345, 335.350, and 335.355 of this
3 act, and the enactment of sections 335.360 to 335.415 of this act shall become
4 effective on December 31, 2018, or upon the enactment of sections 335.360,
5 335.365, 335.370, 335.375, 335.380, 335.385, 335.390, 335.395, 335.400, 335.405,
6 335.410, and 335.415, of this act by no less than twenty-six states and notification
7 of such enactment to the revisor of statutes by the Interstate Commission of
8 Nurse Licensure Compact Administrators, whichever occurs first.

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