

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 635

98TH GENERAL ASSEMBLY

2016

4769S.03T

AN ACT

To repeal sections 167.638, 170.310, 174.335, 190.142, 190.241, 192.737, 192.2490, 192.2495, 197.315, 324.001, 335.300, 335.305, 335.310, 335.315, 335.320, 335.325, 335.330, 335.335, 335.340, 335.345, 335.350, 335.355, 338.200, 376.1235, 376.1237, and 536.031, RSMo, and to enact in lieu thereof forty-seven new sections relating to health care, with penalty provisions, an emergency clause for a certain section, and an effective date for certain sections.

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

Section A. Sections 167.638, 170.310, 174.335, 190.142, 190.241, 192.737, 2 192.2490, 192.2495, 197.315, 324.001, 335.300, 335.305, 335.310, 335.315, 3 335.320, 335.325, 335.330, 335.335, 335.340, 335.345, 335.350, 335.355, 338.200, 4 376.1235, 376.1237, and 536.031, RSMo, are repealed and forty-seven new 5 sections enacted in lieu thereof, to be known as sections 96.192, 167.638, 167.950, 6 170.310, 174.335, 190.142, 190.241, 190.265, 191.1075, 191.1080, 191.1085, 7 192.737, 192.2490, 192.2495, 197.065, 197.315, 324.001, 334.1200, 334.1203, 8 334.1206, 334.1209, 334.1212, 334.1215, 334.1218, 334.1221, 334.1224, 334.1227, 9 334.1230, 334.1233, 335.360, 335.365, 335.370, 335.375, 335.380, 335.385, 10 335.390, 335.395, 335.400, 335.405, 335.410, 335.415, 338.200, 376.388, 376.1235, 11 376.1237, 536.031, and 633.420, to read as follows:

96.192. 1. The board of trustees of any hospital authorized under
2 **subsection 2 of this section, and established and organized under the**
3 **provisions of sections 96.150 to 96.229, may invest up to twenty-five**

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

4 **percent of the hospital's funds not required for immediate**
5 **disbursement in obligations or for the operation of the hospital in any**
6 **United States investment grade fixed income funds or any diversified**
7 **stock funds, or both.**

8 **2. The provisions of this section shall only apply if the hospital:**

9 **(1) Receives less than one percent of its annual revenues from**
10 **municipal, county, or state taxes; and**

11 **(2) Receives less than one percent of its annual revenue from**
12 **appropriated funds from the municipality in which such hospital is**
13 **located.**

167.638. The department of health and senior services shall develop an
2 informational brochure relating to meningococcal disease that states that [an
3 immunization] **immunizations** against meningococcal disease [is] **are**
4 available. The department shall make the brochure available on its website and
5 shall notify every public institution of higher education in this state of the
6 availability of the brochure. Each public institution of higher education shall
7 provide a copy of the brochure to all students and if the student is under eighteen
8 years of age, to the student's parent or guardian. Such information in the
9 brochure shall include:

10 (1) The risk factors for and symptoms of meningococcal disease, how it
11 may be diagnosed, and its possible consequences if untreated;

12 (2) How meningococcal disease is transmitted;

13 (3) The latest scientific information on meningococcal disease
14 immunization and its effectiveness, **including information on all**
15 **meningococcal vaccines receiving a Category A or B recommendation**
16 **from the Advisory Committee on Immunization Practices; [and]**

17 (4) A statement that any questions or concerns regarding immunization
18 against meningococcal disease may be answered by contacting the individual's
19 health care provider; **and**

20 (5) **A recommendation that the current student or entering**
21 **student receive meningococcal vaccines in accordance with current**
22 **Advisory Committee on Immunization Practices of the Centers for**
23 **Disease Control and Prevention guidelines.**

167.950. 1. (1) **By December 31, 2017, the department of**
2 **elementary and secondary education shall develop guidelines for the**
3 **appropriate screening of students for dyslexia and related disorders**

4 and the necessary classroom support for students with dyslexia and
5 related disorders. Such guidelines shall be consistent with the findings
6 and recommendations of the task force created under section 633.420.

7 (2) In the 2018-19 school year and subsequent years, each public
8 school, including each charter school, shall conduct dyslexia screenings
9 for students in the appropriate year consistent with the guidelines
10 developed by the department of elementary and secondary education.

11 (3) In the 2018-19 school year and subsequent years, the school
12 board of each district and the governing board of each charter school
13 shall provide reasonable classroom support consistent with the
14 guidelines developed by the department of elementary and secondary
15 education.

16 2. In the 2018-19 school year and subsequent years, the
17 practicing teacher assistance programs established under section
18 168.400 shall include two hours of in-service training provided by each
19 local school district for all practicing teachers in such district
20 regarding dyslexia and related disorders. Each charter school shall
21 also offer all of its teachers two hours of training on dyslexia and
22 related disorders. Districts and charter schools may seek assistance
23 from the department of elementary and secondary education in
24 developing and providing such training. Completion of such training
25 shall count as two contact hours of professional development under
26 section 168.021.

27 3. For purposes of this section, the following terms mean:

28 (1) "Dyslexia", a disorder that is neurological in origin,
29 characterized by difficulties with accurate and fluent word recognition
30 and poor spelling and decoding abilities that typically result from a
31 deficit in the phonological component of language, often unexpected in
32 relation to other cognitive abilities and the provision of effective
33 classroom instruction, and of which secondary consequences may
34 include problems in reading comprehension and reduced reading
35 experience that can impede growth of vocabulary and background
36 knowledge. Nothing in this definition shall require a student with
37 dyslexia to obtain an individualized education program (IEP) unless
38 the student has otherwise met the federal conditions necessary;

39 (2) "Dyslexia screening", a short test conducted by a teacher or
40 school counselor to determine whether a student likely has dyslexia or

41 a related disorder in which a positive result does not represent a
42 medical diagnosis but indicates that the student could benefit from
43 approved support;

44 (3) "Related disorders", disorders similar to or related to
45 dyslexia, such as developmental auditory imperception, dysphasia,
46 specific developmental dyslexia, developmental dysgraphia, and
47 developmental spelling disability;

48 (4) "Support", low-cost and effective best practices, such as oral
49 examinations and extended test-taking periods, used to support
50 students who have dyslexia or any related disorder.

51 4. The state board of education shall promulgate rules and
52 regulations for each public school to screen students for dyslexia and
53 related disorders and to provide the necessary classroom support for
54 students with dyslexia and related disorders. Any rule or portion of a
55 rule, as that term is defined in section 536.010, that is created under
56 the authority delegated in this section shall become effective only if it
57 complies with and is subject to all of the provisions of chapter 536 and,
58 if applicable, section 536.028. This section and chapter 536 are
59 nonseverable, and if any of the powers vested with the general
60 assembly pursuant to chapter 536 to review, to delay the effective date,
61 or to disapprove and annul a rule are subsequently held
62 unconstitutional, then the grant of rulemaking authority and any rule
63 proposed or adopted after August 28, 2016, shall be invalid and void.

64 5. Nothing in this section shall require the MO HealthNet
65 program to expand the services that it provides.

170.310. 1. For school year 2017-18 and each school year
2 thereafter, upon graduation from high school, pupils in public schools
3 and charter schools shall have received thirty minutes of
4 cardiopulmonary resuscitation instruction and training in the proper
5 performance of the Heimlich maneuver or other first aid for choking
6 given any time during a pupil's four years of high school.

7 2. Beginning in school year 2017-18, any public school or charter
8 school serving grades nine through twelve [may] shall provide enrolled students
9 instruction in cardiopulmonary resuscitation. Students with disabilities may
10 participate to the extent appropriate as determined by the provisions of the
11 Individuals with Disabilities Education Act or Section 504 of the Rehabilitation
12 Act. [Instruction may be embedded in any health education course] **Instruction**

13 **shall be included in the district's existing health or physical education**
14 **curriculum.** Instruction shall be based on a program established by the
15 American Heart Association or the American Red Cross, or through a nationally
16 recognized program based on the most current national evidence-based emergency
17 cardiovascular care guidelines, and psychomotor skills development shall be
18 incorporated into the instruction. For purposes of this section, "psychomotor
19 skills" means the use of hands-on practicing and skills testing to support
20 cognitive learning.

21 [2.] **3.** The teacher of the cardiopulmonary resuscitation course or unit
22 shall not be required to be a certified trainer of cardiopulmonary resuscitation if
23 the instruction is not designed to result in certification of students. Instruction
24 that is designed to result in certification being earned shall be required to be
25 taught by an authorized cardiopulmonary instructor. Schools may develop
26 agreements with any local chapter of a voluntary organization of first responders
27 to provide the required hands-on practice and skills testing.

28 [3.] **4.** The department of elementary and secondary education may
29 promulgate rules to implement this section. Any rule or portion of a rule, as that
30 term is defined in section 536.010, that is created under the authority delegated
31 in this section shall become effective only if it complies with and is subject to all
32 of the provisions of chapter 536 and, if applicable, section 536.028. This section
33 and chapter 536 are nonseverable and if any of the powers vested with the
34 general assembly pursuant to chapter 536 to review, to delay the effective date,
35 or to disapprove and annul a rule are subsequently held unconstitutional, then
36 the grant of rulemaking authority and any rule proposed or adopted after August
37 28, 2012, shall be invalid and void.

174.335. 1. Beginning with the 2004-05 school year and for each school
2 year thereafter, every public institution of higher education in this state shall
3 require all students who reside in on-campus housing to have received the
4 meningococcal vaccine **not more than five years prior to enrollment and**
5 **in accordance with the latest recommendations of the Advisory**
6 **Committee on Immunization Practices of the Centers for Disease**
7 **Control and Prevention,** unless a signed statement of medical or religious
8 exemption is on file with the institution's administration. A student shall be
9 exempted from the immunization requirement of this section upon signed
10 certification by a physician licensed under chapter 334 indicating that either the
11 immunization would seriously endanger the student's health or life or the student

12 has documentation of the disease or laboratory evidence of immunity to the
13 disease. A student shall be exempted from the immunization requirement of this
14 section if he or she objects in writing to the institution's administration that
15 immunization violates his or her religious beliefs.

16 2. Each public university or college in this state shall maintain records
17 on the meningococcal vaccination status of every student residing in on-campus
18 housing at the university or college.

19 3. Nothing in this section shall be construed as requiring any institution
20 of higher education to provide or pay for vaccinations against meningococcal
21 disease.

22 4. **For purposes of this section, the term "on-campus housing"**
23 **shall include, but not be limited to, any fraternity or sorority residence,**
24 **regardless of whether such residence is privately owned, on or near the**
25 **campus of a public institution of higher education.**

190.142. 1. The department shall, within a reasonable time after receipt
2 of an application, cause such investigation as it deems necessary to be made of
3 the applicant for an emergency medical technician's license. The director may
4 authorize investigations into criminal records in other states for any applicant.

5 2. The department shall issue a license to all levels of emergency medical
6 technicians, for a period of five years, if the applicant meets the requirements
7 established pursuant to sections 190.001 to 190.245 and the rules adopted by the
8 department pursuant to sections 190.001 to 190.245. The department may
9 promulgate rules relating to the requirements for an emergency medical
10 technician including but not limited to:

11 (1) Age requirements;

12 (2) Education and training requirements based on respective national
13 curricula of the United States Department of Transportation and any modification
14 to such curricula specified by the department through rules adopted pursuant to
15 sections 190.001 to 190.245;

16 (3) Initial licensure testing requirements. **Initial EMT-P licensure**
17 **testing shall be through the national registry of EMTs or examinations**
18 **developed and administered by the department of health and senior**
19 **services;**

20 (4) Continuing education and relicensure requirements; and

21 (5) Ability to speak, read and write the English language.

22 3. Application for all levels of emergency medical technician license shall

23 be made upon such forms as prescribed by the department in rules adopted
24 pursuant to sections 190.001 to 190.245. The application form shall contain such
25 information as the department deems necessary to make a determination as to
26 whether the emergency medical technician meets all the requirements of sections
27 190.001 to 190.245 and rules promulgated pursuant to sections 190.001 to
28 190.245.

29 4. All levels of emergency medical technicians may perform only that
30 patient care which is:

31 (1) Consistent with the training, education and experience of the
32 particular emergency medical technician; and

33 (2) Ordered by a physician or set forth in protocols approved by the
34 medical director.

35 5. No person shall hold themselves out as an emergency medical
36 technician or provide the services of an emergency medical technician unless such
37 person is licensed by the department.

38 6. Any rule or portion of a rule, as that term is defined in section 536.010,
39 that is created under the authority delegated in this section shall become effective
40 only if it complies with and is subject to all of the provisions of chapter 536 and,
41 if applicable, section 536.028. This section and chapter 536 are nonseverable and
42 if any of the powers vested with the general assembly pursuant to chapter 536 to
43 review, to delay the effective date or to disapprove and annul a rule are
44 subsequently held unconstitutional, then the grant of rulemaking authority and
45 any rule proposed or adopted after August 28, 2002, shall be invalid and void.

190.241. 1. The department shall designate a hospital as an adult,
2 pediatric or adult and pediatric trauma center when a hospital, upon proper
3 application submitted by the hospital and site review, has been found by the
4 department to meet the applicable level of trauma center criteria for designation
5 in accordance with rules adopted by the department as prescribed by section
6 190.185.

7 2. **Except as provided in subsection 4 of this section,** the
8 department shall designate a hospital as a STEMI or stroke center when such
9 hospital, upon proper application and site review, has been found by the
10 department to meet the applicable level of STEMI or stroke center criteria for
11 designation in accordance with rules adopted by the department as prescribed by
12 section 190.185. In developing STEMI center and stroke center designation
13 criteria, the department shall use, as it deems practicable, appropriate peer-

14 reviewed or evidence-based research on such topics including, but not limited to,
15 the most recent guidelines of the American College of Cardiology and American
16 Heart Association for STEMI centers, or the Joint Commission's Primary Stroke
17 Center Certification program criteria for stroke centers, or Primary and
18 Comprehensive Stroke Center Recommendations as published by the American
19 Stroke Association.

20 3. The department of health and senior services shall, not less than once
21 every five years, conduct an on-site review of every trauma, STEMI, and stroke
22 center through appropriate department personnel or a qualified contractor, **with**
23 **the exception of stroke centers designated pursuant to subsection 4 of**
24 **this section; however, this provision is not intended to limit the**
25 **department's ability to conduct a complaint investigation pursuant to**
26 **subdivision (3) of subsection 2 of section 197.080 of any trauma, STEMI,**
27 **or stroke center.** On-site reviews shall be coordinated for the different types
28 of centers to the extent practicable with hospital licensure inspections conducted
29 under chapter 197. No person shall be a qualified contractor for purposes of this
30 subsection who has a substantial conflict of interest in the operation of any
31 trauma, STEMI, or stroke center under review. The department may deny, place
32 on probation, suspend or revoke such designation in any case in which it has
33 reasonable cause to believe that there has been a substantial failure to comply
34 with the provisions of this chapter or any rules or regulations promulgated
35 pursuant to this chapter. If the department of health and senior services has
36 reasonable cause to believe that a hospital is not in compliance with such
37 provisions or regulations, it may conduct additional announced or unannounced
38 site reviews of the hospital to verify compliance. If a trauma, STEMI, or stroke
39 center fails two consecutive on-site reviews because of substantial noncompliance
40 with standards prescribed by sections 190.001 to 190.245 or rules adopted by the
41 department pursuant to sections 190.001 to 190.245, its center designation shall
42 be revoked.

43 4. **Instead of applying for stroke center designation pursuant to**
44 **the provisions of subsection 2 of this section, a hospital may apply for**
45 **stroke center designation pursuant to this subsection. Upon receipt of**
46 **an application from a hospital on a form prescribed by the department,**
47 **the department shall designate such hospital:**

48 (1) **A level I stroke center if such hospital has been certified as**
49 **a comprehensive stroke center by the Joint Commission or any other**

50 certifying organization designated by the department when such
51 certification is in accordance with the American Heart
52 Association/American Stroke Association guidelines;

53 (2) A level II stroke center if such hospital has been certified as
54 a primary stroke center by the Joint Commission or any other
55 certifying organization designated by the department when such
56 certification is in accordance with the American Heart
57 Association/American Stroke Association guidelines; or

58 (3) A level III stroke center if such hospital has been certified as
59 an acute stroke-ready hospital by the Joint Commission or any other
60 certifying organization designated by the department when such
61 certification is in accordance with the American Heart
62 Association/American Stroke Association guidelines.

63 Except as provided by subsection 5 of this section, the department shall
64 not require compliance with any additional standards for establishing
65 or renewing stroke designations. The designation shall continue if such
66 hospital remains certified. The department may remove a hospital's
67 designation as a stroke center if the hospital requests removal of the
68 designation or the department determines that the certificate
69 recognizing the hospital as a stroke center has been suspended or
70 revoked. Any decision made by the department to withdraw its
71 designation of a stroke center pursuant to this subsection that is based
72 on the revocation or suspension of a certification by a certifying
73 organization shall not be subject to judicial review. The department
74 shall report to the certifying organization any complaint it receives
75 related to the stroke center certification of a stroke center designated
76 pursuant to this subsection. The department shall also advise the
77 complainant which organization certified the stroke center and provide
78 the necessary contact information should the complainant wish to
79 pursue a complaint with the certifying organization.

80 5. Any hospital receiving designation as a stroke center pursuant
81 to subsection 4 of this section shall:

82 (1) Annually and within thirty days of any changes submit to the
83 department proof of stroke certification and the names and contact
84 information of the medical director and the program manager of the
85 stroke center;

86 (2) Submit to the department a copy of the certifying

87 organization's final stroke certification survey results within thirty
88 days of receiving such results;

89 (3) Submit every four years an application on a form prescribed
90 by the department for stroke center review and designation;

91 (4) Participate in the emergency medical services regional
92 system of stroke care in its respective emergency medical services
93 region as defined in rules promulgated by the department;

94 (5) Participate in local and regional emergency medical services
95 systems by reviewing and sharing outcome data and providing training
96 and clinical educational resources.

97 Any hospital receiving designation as a level III stroke center pursuant
98 to subsection 4 of this section shall have a formal agreement with a
99 level I or level II stroke center for physician consultative services for
100 evaluation of stroke patients for thrombolytic therapy and the care of
101 the patient post-thrombolytic therapy.

102 6. Hospitals designated as a STEMI or stroke center by the
103 department, including those designated pursuant to subsection 4 of this
104 section, shall submit data to meet the data submission requirements
105 specified by rules promulgated by the department. Such submission of
106 data may be done by the following methods:

107 (1) Entering hospital data directly into a state registry by direct
108 data entry;

109 (2) Downloading hospital data from a nationally-recognized
110 registry or data bank and importing the data files into a state registry;
111 or

112 (3) Authorizing a nationally-recognized registry or data bank to
113 disclose or grant access to the department facility-specific data held by
114 the registry or data bank.

115 A hospital submitting data pursuant to subdivisions (2) or (3) of this
116 subsection shall not be required to collect and submit any additional
117 STEMI or stroke center data elements.

118 7. When collecting and analyzing data pursuant to the provisions
119 of this section, the department shall comply with the following
120 requirements:

121 (1) Names of any health care professionals, as defined in section
122 376.1350, shall not be subject to disclosure;

123 (2) The data shall not be disclosed in a manner that permits the

124 **identification of an individual patient or encounter;**

125 **(3) The data shall be used for the evaluation and improvement**
126 **of hospital and emergency medical services' trauma, stroke, and STEMI**
127 **care;**

128 **(4) The data collection system shall be capable of accepting file**
129 **transfers of data entered into to any national recognized trauma,**
130 **stroke, or STEMI registry or data bank to fulfill trauma, stroke, or**
131 **STEMI certification reporting requirements;**

132 **(5) STEMI and stroke center data elements shall conform to**
133 **nationally recognized performance measures, such as the American**
134 **Heart Association's Get With the Guidelines, and include published**
135 **detailed measure specifications, data coding instructions, and patient**
136 **population inclusion and exclusion criteria to ensure data reliability**
137 **and validity; and**

138 **(6) Generate from the trauma, stroke, and STEMI registries**
139 **quarterly regional and state outcome data reports for trauma, stroke,**
140 **and STEMI designated centers, the state advisory council on EMS, and**
141 **regional EMS committees to review for performance improvement and**
142 **patient safety.**

143 **8. The board of registration for the healing arts shall have sole**
144 **authority to establish education requirements for physicians who**
145 **practice in an emergency department of a facility designated as a**
146 **trauma, STEMI, or stroke center by the department under this**
147 **section. The department shall deem such education requirements**
148 **promulgated by the board of registration for the healing arts sufficient**
149 **to meet the standards for designations under this section.**

150 **9. The department of health and senior services may establish appropriate**
151 **fees to offset the costs of trauma, STEMI, and stroke center reviews.**

152 **[5.] 10. No hospital shall hold itself out to the public as a STEMI center,**
153 **stroke center, adult trauma center, pediatric trauma center, or an adult and**
154 **pediatric trauma center unless it is designated as such by the department of**
155 **health and senior services.**

156 **[6.] 11. Any person aggrieved by an action of the department of health**
157 **and senior services affecting the trauma, STEMI, or stroke center designation**
158 **pursuant to this chapter, including the revocation, the suspension, or the**
159 **granting of, refusal to grant, or failure to renew a designation, may seek a**
160 **determination thereon by the administrative hearing commission under chapter**

161 621. It shall not be a condition to such determination that the person aggrieved
162 seek a reconsideration, a rehearing, or exhaust any other procedure within the
163 department.

**190.265. 1. In order to ensure that the skids of a helicopter do
2 not get caught in a fence or other barriers and cause a potentially
3 catastrophic outcome, any rules and regulations promulgated by the
4 department of health and senior services pursuant to sections 190.185,
5 190.241, and 192.006, chapter 197, or any other provision of Missouri
6 law shall not require hospitals to have a fence, or other barriers,
7 around such hospital's helipad. Any regulation requiring fencing, or
8 other barriers, or any interpretation of such regulation shall be null
9 and void.**

10 **2. In addition to the prohibition in subsection 1 of this section,
11 the department shall not promulgate any rules and regulations with
12 respect to the operation or construction of a helipad located at a
13 hospital.**

14 **3. Hospitals shall ensure that helipads are free of obstruction
15 and safe for use by a helicopter while on the ground, during approach,
16 and takeoff.**

17 **4. As used in this section, the term "hospital" shall have the same
18 meaning as in section 197.020.**

**191.1075. As used in sections 191.1075 to 191.1085, the following
2 terms shall mean:**

3 **(1) "Department", the department of health and senior services;**

4 **(2) "Health care professional", a physician or other health care
5 practitioner licensed, accredited, or certified by the state of Missouri
6 to perform specified health services;**

7 **(3) "Hospital":**

8 **(a) A place devoted primarily to the maintenance and operation
9 of facilities for the diagnosis, treatment, or care of not less than twenty-
10 four consecutive hours in any week of three or more nonrelated
11 individuals suffering from illness, disease, injury, deformity, or other
12 abnormal physical conditions; or**

13 **(b) A place devoted primarily to provide for not less than twenty-
14 four consecutive hours in any week medical or nursing care for three
15 or more unrelated individuals. "Hospital" does not include
16 convalescent, nursing, shelter, or boarding homes as defined in chapter**

17 198.

191.1080. 1. There is hereby created within the department the
2 "Missouri Palliative Care and Quality of Life Interdisciplinary Council",
3 which shall be a palliative care consumer and professional information
4 and education program to improve quality and delivery of patient-
5 centered and family-focused care in this state.

6 2. On or before December 1, 2016, the following members shall be
7 appointed to the council:

8 (1) Two members of the senate, appointed by the president pro
9 tempore of the senate;

10 (2) Two members of the house of representatives, appointed by
11 the speaker of the house of representatives;

12 (3) Two board-certified hospice and palliative medicine
13 physicians licensed in this state, appointed by the governor with the
14 advice and consent of the senate;

15 (4) Two certified hospice and palliative nurses licensed in this
16 state, appointed by the governor with the advice and consent of the
17 senate;

18 (5) A certified hospice and palliative social worker, appointed by
19 the governor with the advice and consent of the senate;

20 (6) A patient and family caregiver advocate representative,
21 appointed by the governor with the advice and consent of the senate;
22 and

23 (7) A spiritual professional with experience in palliative care and
24 health care, appointed by the governor with the advice and consent of
25 the senate.

26 3. Council members shall serve for a term of three years. The
27 members of the council shall elect a chair and vice chair whose duties
28 shall be established by the council. The department shall determine a
29 time and place for regular meetings of the council, which shall meet at
30 least biannually.

31 4. Members of the council shall serve without compensation, but
32 shall, subject to appropriations, be reimbursed for their actual and
33 necessary expenses incurred in the performance of their duties as
34 members of the council.

35 5. The council shall consult with and advise the department on
36 matters related to the establishment, maintenance, operation, and

37 **outcomes evaluation of palliative care initiatives in this state,**
38 **including the palliative care consumer and professional information**
39 **and education program established in section 191.1085.**

40 **6. The council shall submit an annual report to the general**
41 **assembly, which includes an assessment of the availability of palliative**
42 **care in this state for patients at early stages of serious disease and an**
43 **analysis of barriers to greater access to palliative care.**

44 **7. The council authorized under this section shall automatically**
45 **expire August 28, 2022.**

191.1085. 1. There is hereby established the "Palliative Care
2 **Consumer and Professional Information and Education Program"**
3 **within the department.**

4 **2. The purpose of the program is to maximize the effectiveness**
5 **of palliative care in this state by ensuring that comprehensive and**
6 **accurate information and education about palliative care is available**
7 **to the public, health care providers, and health care facilities.**

8 **3. The department shall publish on its website information and**
9 **resources, including links to external resources, about palliative care**
10 **for the public, health care providers, and health care facilities**
11 **including, but not limited to:**

12 **(1) Continuing education opportunities for health care providers;**

13 **(2) Information about palliative care delivery in the home,**
14 **primary, secondary, and tertiary environments; and**

15 **(3) Consumer educational materials and referral information for**
16 **palliative care, including hospice.**

17 **4. Each hospital in this state is encouraged to have a palliative**
18 **care presence on its intranet or internet website which provides links**
19 **to one or more of the following organizations: the Institute of**
20 **Medicine, the Center to Advance Palliative Care, the Supportive Care**
21 **Coalition, the National Hospice and Palliative Care Organization, the**
22 **American Academy of Hospice and Palliative Medicine, and the**
23 **National Institute on Aging.**

24 **5. Each hospital in this state is encouraged to have patient**
25 **education information about palliative care available for distribution**
26 **to patients.**

27 **6. The department shall consult with the palliative care and**
28 **quality of life interdisciplinary council established in section 191.1080**

29 in implementing the section.

30 7. The department may promulgate rules to implement the
31 provisions of sections 191.1075 to 191.1085. Any rule or portion of a
32 rule, as that term is defined in section 536.010, that is created under
33 the authority delegated in sections 191.1075 to 191.1085 shall become
34 effective only if it complies with and is subject to all of the provisions
35 of chapter 536 and, if applicable, section 536.028. Sections 191.1075 to
36 191.1085 and chapter 536 are nonseverable, and if any of the powers
37 vested with the general assembly pursuant to chapter 536 to review, to
38 delay the effective date, or to disapprove and annul a rule are
39 subsequently held unconstitutional, then the grant of rulemaking
40 authority and any rule proposed or adopted after August 28, 2016, shall
41 be invalid and void.

42 8. Notwithstanding the provisions of section 23.253 to the
43 contrary, the program authorized under this section shall automatically
44 expire on August 28, 2022.

192.737. [1.] The department of health and senior services shall
2 [establish and maintain an information registry and reporting system for the
3 purpose of data collection and needs assessment of brain and spinal cord injured
4 persons in this state] use patient abstract data under section 192.667, the
5 department's trauma registry, motor vehicle crash and outcome data,
6 and other publicly available data sources to provide information and
7 create reports for the purpose of data analysis and needs assessment
8 of traumatic brain and spinal cord injured persons.

9 [2. Reports of traumatic brain and spinal cord injuries shall be filed with
10 the department by a treating physician or his designee within seven days of
11 identification. The attending physician of any patient with traumatic brain or
12 spinal cord injury who is in the hospital shall provide in writing to the chief
13 administrative officer the information required to be reported by this
14 section. The chief administrative officer of the hospital shall then have the duty
15 to submit the required reports.

16 3. Reporting forms and the manner in which the information is to be
17 reported shall be provided by the department. Such reports shall include, but
18 shall not be limited to, the following information: name, age, and residence of the
19 injured person, the date and cause of the injury, the initial diagnosis and such
20 other information as required by the department.]

192.2490. 1. After an investigation and a determination has been made
2 to place a person's name on the employee disqualification list, that person shall
3 be notified in writing mailed to his or her last known address that:

4 (1) An allegation has been made against the person, the substance of the
5 allegation and that an investigation has been conducted which tends to
6 substantiate the allegation;

7 (2) The person's name will be included in the employee disqualification
8 list of the department;

9 (3) The consequences of being so listed including the length of time to be
10 listed; and

11 (4) The person's rights and the procedure to challenge the allegation.

12 2. If no reply has been received within thirty days of mailing the notice,
13 the department may include the name of such person on its list. The length of
14 time the person's name shall appear on the employee disqualification list shall
15 be determined by the director or the director's designee, based upon the criteria
16 contained in subsection 9 of this section.

17 3. If the person so notified wishes to challenge the allegation, such person
18 may file an application for a hearing with the department. The department shall
19 grant the application within thirty days after receipt by the department and set
20 the matter for hearing, or the department shall notify the applicant that, after
21 review, the allegation has been held to be unfounded and the applicant's name
22 will not be listed.

23 4. If a person's name is included on the employee disqualification list
24 without the department providing notice as required under subsection 1 of this
25 section, such person may file a request with the department for removal of the
26 name or for a hearing. Within thirty days after receipt of the request, the
27 department shall either remove the name from the list or grant a hearing and set
28 a date therefor.

29 5. Any hearing shall be conducted in the county of the person's residence
30 by the director of the department or the director's designee. The provisions of
31 chapter 536 for a contested case except those provisions or amendments which are
32 in conflict with this section shall apply to and govern the proceedings contained
33 in this section and the rights and duties of the parties involved. The person
34 appealing such an action shall be entitled to present evidence, pursuant to the
35 provisions of chapter 536, relevant to the allegations.

36 6. Upon the record made at the hearing, the director of the department

37 or the director's designee shall determine all questions presented and shall
38 determine whether the person shall be listed on the employee disqualification
39 list. The director of the department or the director's designee shall clearly state
40 the reasons for his or her decision and shall include a statement of findings of
41 fact and conclusions of law pertinent to the questions in issue.

42 7. A person aggrieved by the decision following the hearing shall be
43 informed of his or her right to seek judicial review as provided under chapter 536.
44 If the person fails to appeal the director's findings, those findings shall constitute
45 a final determination that the person shall be placed on the employee
46 disqualification list.

47 8. A decision by the director shall be inadmissible in any civil action
48 brought against a facility or the in-home services provider agency and arising out
49 of the facts and circumstances which brought about the employment
50 disqualification proceeding, unless the civil action is brought against the facility
51 or the in-home services provider agency by the department of health and senior
52 services or one of its divisions.

53 9. The length of time the person's name shall appear on the employee
54 disqualification list shall be determined by the director of the department of
55 health and senior services or the director's designee, based upon the following:

56 (1) Whether the person acted recklessly or knowingly, as defined in
57 chapter 562;

58 (2) The degree of the physical, sexual, or emotional injury or harm; or the
59 degree of the imminent danger to the health, safety or welfare of a resident or in-
60 home services client;

61 (3) The degree of misappropriation of the property or funds, or
62 falsification of any documents for service delivery of an in-home services client;

63 (4) Whether the person has previously been listed on the employee
64 disqualification list;

65 (5) Any mitigating circumstances;

66 (6) Any aggravating circumstances; and

67 (7) Whether alternative sanctions resulting in conditions of continued
68 employment are appropriate in lieu of placing a person's name on the employee
69 disqualification list. Such conditions of employment may include, but are not
70 limited to, additional training and employee counseling. Conditional employment
71 shall terminate upon the expiration of the designated length of time and the
72 person's submitting documentation which fulfills the department of health and

73 senior services' requirements.

74 10. The removal of any person's name from the list under this section
75 shall not prevent the director from keeping records of all acts finally determined
76 to have occurred under this section.

77 11. The department shall provide the list maintained pursuant to this
78 section to other state departments upon request and to any person, corporation,
79 organization, or association who:

80 (1) Is licensed as an operator under chapter 198;

81 (2) Provides in-home services under contract with the department of social
82 services or its divisions;

83 (3) Employs [nurses and nursing assistants] **health care providers as**
84 **defined in section 376.1350** for temporary or intermittent placement in health
85 care facilities;

86 (4) Is approved by the department to issue certificates for nursing
87 assistants training;

88 (5) Is an entity licensed under chapter 197;

89 (6) Is a recognized school of nursing, medicine, or other health profession
90 for the purpose of determining whether students scheduled to participate in
91 clinical rotations with entities described in subdivision (1), (2), or (5) of this
92 subsection are included in the employee disqualification list; or

93 (7) Is a consumer reporting agency regulated by the federal Fair Credit
94 Reporting Act that conducts employee background checks on behalf of entities
95 listed in [subdivisions (1), (2), (5), or (6) of] this subsection. Such a consumer
96 reporting agency shall conduct the employee disqualification list check only upon
97 the initiative or request of an entity described in [subdivisions (1), (2), (5), or (6)
98 of] this subsection when the entity is fulfilling its duties required under this
99 section.

100 The information shall be disclosed only to the requesting entity. The department
101 shall inform any person listed above who inquires of the department whether or
102 not a particular name is on the list. The department may require that the
103 request be made in writing. No person, corporation, organization, or association
104 who is entitled to access the employee disqualification list may disclose the
105 information to any person, corporation, organization, or association who is not
106 entitled to access the list. Any person, corporation, organization, or association
107 who is entitled to access the employee disqualification list who discloses the
108 information to any person, corporation, organization, or association who is not

109 entitled to access the list shall be guilty of an infraction.

110 12. No person, corporation, organization, or association who received the
111 employee disqualification list under subdivisions (1) to (7) of subsection 11 of this
112 section shall knowingly employ any person who is on the employee
113 disqualification list. Any person, corporation, organization, or association who
114 received the employee disqualification list under subdivisions (1) to (7) of
115 subsection 11 of this section, or any person responsible for providing health care
116 service, who declines to employ or terminates a person whose name is listed in
117 this section shall be immune from suit by that person or anyone else acting for
118 or in behalf of that person for the failure to employ or for the termination of the
119 person whose name is listed on the employee disqualification list.

120 13. Any employer or vendor as defined in sections 197.250, 197.400,
121 198.006, 208.900, or 192.2400 required to deny employment to an applicant or to
122 discharge an employee, provisional or otherwise, as a result of information
123 obtained through any portion of the background screening and employment
124 eligibility determination process under section 210.903, or subsequent, periodic
125 screenings, shall not be liable in any action brought by the applicant or employee
126 relating to discharge where the employer is required by law to terminate the
127 employee, provisional or otherwise, and shall not be charged for unemployment
128 insurance benefits based on wages paid to the employee for work prior to the date
129 of discharge, pursuant to section 288.100, if the employer terminated the
130 employee because the employee:

131 (1) Has been found guilty, pled guilty or nolo contendere in this state or
132 any other state of a crime as listed in subsection 6 of section 192.2495;

133 (2) Was placed on the employee disqualification list under this section
134 after the date of hire;

135 (3) Was placed on the employee disqualification registry maintained by
136 the department of mental health after the date of hire;

137 (4) Has a disqualifying finding under this section, section 192.2495, or is
138 on any of the background check lists in the family care safety registry under
139 sections 210.900 to 210.936; or

140 (5) Was denied a good cause waiver as provided for in subsection 10 of
141 section 192.2495.

142 14. Any person who has been listed on the employee disqualification list
143 may request that the director remove his or her name from the employee
144 disqualification list. The request shall be written and may not be made more

145 than once every twelve months. The request will be granted by the director upon
146 a clear showing, by written submission only, that the person will not commit
147 additional acts of abuse, neglect, misappropriation of the property or funds, or the
148 falsification of any documents of service delivery to an in-home services
149 client. The director may make conditional the removal of a person's name from
150 the list on any terms that the director deems appropriate, and failure to comply
151 with such terms may result in the person's name being relisted. The director's
152 determination of whether to remove the person's name from the list is not subject
153 to appeal.

192.2495. 1. For the purposes of this section, the term "provider" means
2 any person, corporation or association who:

- 3 (1) Is licensed as an operator pursuant to chapter 198;
- 4 (2) Provides in-home services under contract with the department of social
5 services or its divisions;
- 6 (3) Employs [nurses or nursing assistants] **health care providers as**
7 **defined in section 376.1350** for temporary or intermittent placement in health
8 care facilities;
- 9 (4) Is an entity licensed pursuant to chapter 197;
- 10 (5) Is a public or private facility, day program, residential facility or
11 specialized service operated, funded or licensed by the department of mental
12 health; or
- 13 (6) Is a licensed adult day care provider.

14 2. For the purpose of this section "patient or resident" has the same
15 meaning as such term is defined in section 43.540.

16 3. Prior to allowing any person who has been hired as a full-time, part-
17 time or temporary position to have contact with any patient or resident the
18 provider shall, or in the case of temporary employees hired through or contracted
19 for an employment agency, the employment agency shall prior to sending a
20 temporary employee to a provider:

- 21 (1) Request a criminal background check as provided in section
22 43.540. Completion of an inquiry to the highway patrol for criminal records that
23 are available for disclosure to a provider for the purpose of conducting an
24 employee criminal records background check shall be deemed to fulfill the
25 provider's duty to conduct employee criminal background checks pursuant to this
26 section; except that, completing the inquiries pursuant to this subsection shall not
27 be construed to exempt a provider from further inquiry pursuant to common law

28 requirements governing due diligence. If an applicant has not resided in this
29 state for five consecutive years prior to the date of his or her application for
30 employment, the provider shall request a nationwide check for the purpose of
31 determining if the applicant has a prior criminal history in other states. The
32 fingerprint cards and any required fees shall be sent to the highway patrol's
33 central repository. The first set of fingerprints shall be used for searching the
34 state repository of criminal history information. If no identification is made, the
35 second set of fingerprints shall be forwarded to the Federal Bureau of
36 Investigation, Identification Division, for the searching of the federal criminal
37 history files. The patrol shall notify the submitting state agency of any criminal
38 history information or lack of criminal history information discovered on the
39 individual. The provisions relating to applicants for employment who have not
40 resided in this state for five consecutive years shall apply only to persons who
41 have no employment history with a licensed Missouri facility during that five-
42 year period. Notwithstanding the provisions of section 610.120, all records
43 related to any criminal history information discovered shall be accessible and
44 available to the provider making the record request; and

45 (2) Make an inquiry to the department of health and senior services
46 whether the person is listed on the employee disqualification list as provided in
47 section 192.2490.

48 4. When the provider requests a criminal background check pursuant to
49 section 43.540, the requesting entity may require that the applicant reimburse
50 the provider for the cost of such record check. When a provider requests a
51 nationwide criminal background check pursuant to subdivision (1) of subsection
52 3 of this section, the total cost to the provider of any background check required
53 pursuant to this section shall not exceed five dollars which shall be paid to the
54 state. State funding and the obligation of a provider to obtain a nationwide
55 criminal background check shall be subject to the availability of appropriations.

56 5. An applicant for a position to have contact with patients or residents
57 of a provider shall:

58 (1) Sign a consent form as required by section 43.540 so the provider may
59 request a criminal records review;

60 (2) Disclose the applicant's criminal history. For the purposes of this
61 subdivision "criminal history" includes any conviction or a plea of guilty to a
62 misdemeanor or felony charge and shall include any suspended imposition of
63 sentence, any suspended execution of sentence or any period of probation or

64 parole; [and]

65 (3) Disclose if the applicant is listed on the employee disqualification list
66 as provided in section 192.2490; and

67 (4) **Disclose if the applicant is listed on any of the background**
68 **checks in the family care safety registry established under section**
69 **210.903. A provider not otherwise prohibited from employing an**
70 **individual listed on such background checks may deny employment to**
71 **an individual listed on any of the background checks in such registry.**

72 6. An applicant who knowingly fails to disclose his or her criminal history
73 as required in subsection 5 of this section is guilty of a class A misdemeanor. A
74 provider is guilty of a class A misdemeanor if the provider knowingly hires or
75 retains a person to have contact with patients or residents and the person has
76 been found guilty in this state or any other state or has been found guilty of a
77 crime, which if committed in Missouri would be a class A or B felony violation of
78 chapter 565, 566 or 569, or any violation of subsection 3 of section 198.070 or
79 section 568.020.

80 7. Any in-home services provider agency or home health agency shall be
81 guilty of a class A misdemeanor if such agency knowingly employs a person to
82 provide in-home services or home health services to any in-home services client
83 or home health patient and such person either refuses to register with the family
84 care safety registry or is listed on any of the background check lists in the family
85 care safety registry pursuant to sections 210.900 to 210.937.

86 8. The highway patrol shall examine whether protocols can be developed
87 to allow a provider to request a statewide fingerprint criminal records review
88 check through local law enforcement agencies.

89 9. A provider may use a private investigatory agency rather than the
90 highway patrol to do a criminal history records review check, and alternatively,
91 the applicant pays the private investigatory agency such fees as the provider and
92 such agency shall agree.

93 10. Except for the hiring restriction based on the department of health
94 and senior services employee disqualification list established pursuant to section
95 192.2490, the department of health and senior services shall promulgate rules
96 and regulations to waive the hiring restrictions pursuant to this section for good
97 cause. For purposes of this section, "good cause" means the department has made
98 a determination by examining the employee's prior work history and other
99 relevant factors that such employee does not present a risk to the health or safety

100 of residents.

197.065. 1. The department of health and senior services shall
2 promulgate regulations for the construction and renovation of hospitals
3 that include life safety code standards for hospitals that exclusively
4 reflect the life safety code standards imposed by the federal Medicare
5 program under Title XVIII of the Social Security Act and its conditions
6 of participation in the Code of Federal Regulations.

7 2. The department shall not require a hospital to meet the
8 standards contained in the Facility Guidelines Institute for the Design
9 and Construction of Health Care Facilities but any hospital that
10 complies with the 2010 or later version of such guidelines for the
11 construction and renovation of hospitals shall not be required to
12 comply with any regulation that is inconsistent or conflicts in any way
13 with such guidelines.

14 3. The department may waive enforcement of the standards for
15 licensed hospitals imposed by this section if the department determines
16 that:

17 (1) Compliance with those specific standards would result in
18 unreasonable hardship for the facility and if the health and safety of
19 hospital patients would not be compromised by such waiver or waivers;
20 or

21 (2) The hospital has used other standards that provide for
22 equivalent design criteria.

23 4. Regulations promulgated by the department to establish and
24 enforce hospital licensure regulations under this chapter that conflict
25 with the standards established under subsections 1 and 3 of this section
26 shall lapse on and after January 1, 2018.

27 5. Any rule or portion of a rule, as that term is defined in section
28 536.010, that is created under the authority delegated in this section
29 shall become effective only if it complies with and is subject to all of
30 the provisions of chapter 536 and, if applicable, section 536.028. This
31 section and chapter 536 are nonseverable, and if any of the powers
32 vested with the general assembly pursuant to chapter 536 to review, to
33 delay the effective date, or to disapprove and annul a rule are
34 subsequently held unconstitutional, then the grant of rulemaking
35 authority and any rule proposed or adopted after August 28, 2016, shall
36 be invalid and void.

197.315. 1. Any person who proposes to develop or offer a new
2 institutional health service within the state must obtain a certificate of need from
3 the committee prior to the time such services are offered.

4 2. Only those new institutional health services which are found by the
5 committee to be needed shall be granted a certificate of need. Only those new
6 institutional health services which are granted certificates of need shall be
7 offered or developed within the state. No expenditures for new institutional
8 health services in excess of the applicable expenditure minimum shall be made
9 by any person unless a certificate of need has been granted.

10 3. After October 1, 1980, no state agency charged by statute to license or
11 certify health care facilities shall issue a license to or certify any such facility, or
12 distinct part of such facility, that is developed without obtaining a certificate of
13 need.

14 4. If any person proposes to develop any new institutional health care
15 service without a certificate of need as required by sections 197.300 to 197.366,
16 the committee shall notify the attorney general, and he shall apply for an
17 injunction or other appropriate legal action in any court of this state against that
18 person.

19 5. After October 1, 1980, no agency of state government may appropriate
20 or grant funds to or make payment of any funds to any person or health care
21 facility which has not first obtained every certificate of need required pursuant
22 to sections 197.300 to 197.366.

23 6. A certificate of need shall be issued only for the premises and persons
24 named in the application and is not transferable except by consent of the
25 committee.

26 7. Project cost increases, due to changes in the project application as
27 approved or due to project change orders, exceeding the initial estimate by more
28 than ten percent shall not be incurred without consent of the committee.

29 8. Periodic reports to the committee shall be required of any applicant
30 who has been granted a certificate of need until the project has been
31 completed. The committee may order the forfeiture of the certificate of need upon
32 failure of the applicant to file any such report.

33 9. A certificate of need shall be subject to forfeiture for failure to incur a
34 capital expenditure on any approved project within six months after the date of
35 the order. The applicant may request an extension from the committee of not
36 more than six additional months based upon substantial expenditure made.

37 10. Each application for a certificate of need must be accompanied by an
38 application fee. The time of filing commences with the receipt of the application
39 and the application fee. The application fee is one thousand dollars, or one-tenth
40 of one percent of the total cost of the proposed project, whichever is greater. All
41 application fees shall be deposited in the state treasury. Because of the loss of
42 federal funds, the general assembly will appropriate funds to the Missouri health
43 facilities review committee.

44 11. In determining whether a certificate of need should be granted, no
45 consideration shall be given to the facilities or equipment of any other health care
46 facility located more than a fifteen-mile radius from the applying facility.

47 12. When a nursing facility shifts from a skilled to an intermediate level
48 of nursing care, it may return to the higher level of care if it meets the licensure
49 requirements, without obtaining a certificate of need.

50 13. In no event shall a certificate of need be denied because the applicant
51 refuses to provide abortion services or information.

52 14. A certificate of need shall not be required for the transfer of ownership
53 of an existing and operational health facility in its entirety.

54 15. A certificate of need may be granted to a facility for an expansion, an
55 addition of services, a new institutional service, or for a new hospital facility
56 which provides for something less than that which was sought in the application.

57 16. The provisions of this section shall not apply to facilities operated by
58 the state, and appropriation of funds to such facilities by the general assembly
59 shall be deemed in compliance with this section, and such facilities shall be
60 deemed to have received an appropriate certificate of need without payment of
61 any fee or charge. **The provisions of this subsection shall not apply to**
62 **hospitals operated by the state and licensed under chapter 197, except**
63 **for department of mental health state-operated psychiatric hospitals.**

64 17. Notwithstanding other provisions of this section, a certificate of need
65 may be issued after July 1, 1983, for an intermediate care facility operated
66 exclusively for the intellectually disabled.

67 18. To assure the safe, appropriate, and cost-effective transfer of new
68 medical technology throughout the state, a certificate of need shall not be
69 required for the purchase and operation of:

70 **(1)** Research equipment that is to be used in a clinical trial that has
71 received written approval from a duly constituted institutional review board of
72 an accredited school of medicine or osteopathy located in Missouri to establish its

73 safety and efficacy and does not increase the bed complement of the institution
74 in which the equipment is to be located. After the clinical trial has been
75 completed, a certificate of need must be obtained for continued use in such
76 facility; or

77 **(2) Equipment that is to be used by an academic health center**
78 **operated by the state in furtherance of its research or teaching**
79 **missions.**

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 attorney-
89 client privilege and work-product privilege to the same extent as any other
90 person. Provided, however, that any board may disclose confidential information
91 without the consent of the person involved in the course of voluntary interstate
92 exchange of information, or in the course of any litigation concerning that person,
93 or pursuant to a lawful request, or to other administrative or law enforcement
94 agencies acting within the scope of their statutory authority. Information
95 regarding identity, including names and addresses, registration, and currency of
96 the license of the persons possessing licenses to engage in a professional
97 occupation and the names and addresses of applicants for such licenses is not
98 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
110 of 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 section 334.001, the
191 boards may release identifying data to the contractor to facilitate data
192 analysis of the health care workforce including, but not limited to,
193 geographic, demographic, and practice or professional characteristics
194 of licensees. The state board shall not request or be authorized to
195 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.

334.1200. 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 334.1209.A. to maintain the compact privilege in the remote
23 state.

24 C. A licensee providing physical therapy in a remote state under
25 the compact privilege shall function within the laws and regulations of
26 the remote state.

27 D. A licensee providing physical therapy in a remote state is
28 subject to that state's regulatory authority. A remote state may, in
29 accordance with due process and that state's laws, remove a licensee's
30 compact privilege in the remote state for a specific period of time,
31 impose fines, and/or take any other necessary actions to protect the
32 health and safety of its citizens. The licensee is not eligible for a
33 compact privilege in any state until the specific time for removal has
34 passed and all fines are paid.

35 E. If a home state license is encumbered, the licensee shall lose
36 the compact privilege in any remote state until the following occur:

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

39 F. Once an encumbered license in the home state is restored to
40 good standing, the licensee must meet the requirements of section
41 334.1209A to obtain a compact privilege in any remote state.

42 G. If a licensee's compact privilege in any remote state is
43 removed, the individual shall lose the compact privilege in any remote
44 state until the following occur:

- 45 1. The specific period of time for which the compact privilege
46 was removed has ended;
47 2. All fines have been paid; and
48 3. Two years have elapsed from the date of the adverse action.

49 H. Once the requirements of section 334.1209G have been met,
50 the license must meet the requirements in section 334.1209A to obtain

51 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.

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.

335.360. 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.

338.200. 1. In the event a pharmacist is unable to obtain refill
2 authorization from the prescriber due to death, incapacity, or when the
3 pharmacist is unable to obtain refill authorization from the prescriber, a
4 pharmacist may dispense an emergency supply of medication if:

5 (1) In the pharmacist's professional judgment, interruption of therapy
6 might reasonably produce undesirable health consequences;

7 (2) The pharmacy previously dispensed or refilled a prescription from the
8 applicable prescriber for the same patient and medication;

9 (3) The medication dispensed is not a controlled substance;

10 (4) The pharmacist informs the patient or the patient's agent either
11 verbally, electronically, or in writing at the time of dispensing that authorization
12 of a prescriber is required for future refills; and

13 (5) The pharmacist documents the emergency dispensing in the patient's
14 prescription record, as provided by the board by rule.

15 2. (1) If the pharmacist is unable to obtain refill authorization from the
16 prescriber, the amount dispensed shall be limited to the amount determined by
17 the pharmacist within his or her professional judgment as needed for the
18 emergency period, provided the amount dispensed shall not exceed a seven-day
19 supply.

20 (2) In the event of prescriber death or incapacity or inability of the
21 prescriber to provide medical services, the amount dispensed shall not exceed a

22 thirty-day supply.

23 3. Pharmacists or permit holders dispensing an emergency supply
24 pursuant to this section shall promptly notify the prescriber or the prescriber's
25 office of the emergency dispensing, as required by the board by rule.

26 4. An emergency supply may not be dispensed pursuant to this section if
27 the pharmacist has knowledge that the prescriber has otherwise prohibited or
28 restricted emergency dispensing for the applicable patient.

29 5. **The determination to dispense an emergency supply of**
30 **medication under this section shall only be made by a pharmacist**
31 **licensed by the board.**

32 6. The board shall promulgate rules to implement the provisions of this
33 section. Any rule or portion of a rule, as that term is defined in section 536.010,
34 that is created under the authority delegated in this section shall become effective
35 only if it complies with and is subject to all of the provisions of chapter 536 and,
36 if applicable, section 536.028. This section and chapter 536 are nonseverable and
37 if any of the powers vested with the general assembly pursuant to chapter 536 to
38 review, to delay the effective date, or to disapprove and annul a rule are
39 subsequently held unconstitutional, then the grant of rulemaking authority and
40 any rule proposed or adopted after August 28, 2013, shall be invalid and void.

376.388. 1. As used in this section, unless the context requires
2 **otherwise, the following terms shall mean:**

3 (1) **"Contracted pharmacy" or "pharmacy", a pharmacy located in**
4 **Missouri participating in the network of a pharmacy benefits manager**
5 **through a direct or indirect contract;**

6 (2) **"Health carrier", an entity subject to the insurance laws and**
7 **regulations of this state that contracts or offers to contract to provide,**
8 **deliver, arrange for, pay for, or reimburse any of the costs of health**
9 **care services, including a sickness and accident insurance company, a**
10 **health maintenance organization, a nonprofit hospital and health**
11 **service corporation, or any other entity providing a plan of health**
12 **insurance, health benefits, or health services, except that such plan**
13 **shall not include any coverage pursuant to a liability insurance policy,**
14 **workers' compensation insurance policy, or medical payments**
15 **insurance issued as a supplement to a liability policy;**

16 (3) **"Maximum allowable cost", the per unit amount that a**
17 **pharmacy benefits manager reimburses a pharmacist for a prescription**

18 **drug, excluding a dispensing or professional fee;**

19 **(4) "Maximum allowable cost list" or "MAC list", a listing of drug**
20 **products that meet the standard described in this section;**

21 **(5) "Pharmacy", as such term is defined in chapter 338;**

22 **(6) "Pharmacy benefits manager", an entity that contracts with**
23 **pharmacies on behalf of health carriers or any health plan sponsored**
24 **by the state or a political subdivision of the state.**

25 **2. Upon each contract execution or renewal between a pharmacy**
26 **benefits manager and a pharmacy or between a pharmacy benefits**
27 **manager and a pharmacy's contracting representative or agent, such as**
28 **a pharmacy services administrative organization, a pharmacy benefits**
29 **manager shall, with respect to such contract or renewal:**

30 **(1) Include in such contract or renewal the sources utilized to**
31 **determine maximum allowable cost and update such pricing**
32 **information at least every seven days; and**

33 **(2) Maintain a procedure to eliminate products from the**
34 **maximum allowable cost list of drugs subject to such pricing or modify**
35 **maximum allowable cost pricing at least every seven days, if such drugs**
36 **do not meet the standards and requirements of this section, in order to**
37 **remain consistent with pricing changes in the marketplace.**

38 **3. A pharmacy benefits manager shall reimburse pharmacies for**
39 **drugs subject to maximum allowable cost pricing that has been updated**
40 **to reflect market pricing at least every seven days as set forth under**
41 **subdivision (1) of subsection 2 of this section.**

42 **4. A pharmacy benefits manager shall not place a drug on a**
43 **maximum allowable cost list unless there are at least two**
44 **therapeutically equivalent multisource generic drugs, or at least one**
45 **generic drug available from at least one manufacturer, generally**
46 **available for purchase by network pharmacies from national or**
47 **regional wholesalers.**

48 **5. All contracts between a pharmacy benefits manager and a**
49 **contracted pharmacy or between a pharmacy benefits manager and a**
50 **pharmacy's contracting representative or agent, such as a pharmacy**
51 **services administrative organization, shall include a process to**
52 **internally appeal, investigate, and resolve disputes regarding maximum**
53 **allowable cost pricing. The process shall include the following:**

54 **(1) The right to appeal shall be limited to fourteen calendar days**

55 following the reimbursement of the initial claim; and

56 (2) A requirement that the pharmacy benefits manager shall
57 respond to an appeal described in this subsection no later than
58 fourteen calendar days after the date the appeal was received by such
59 pharmacy benefits manager.

60 6. For appeals that are denied, the pharmacy benefits manager
61 shall provide the reason for the denial and identify the national drug
62 code of a drug product that may be purchased by contracted
63 pharmacies at a price at or below the maximum allowable cost and,
64 when applicable, may be substituted lawfully.

65 7. If the appeal is successful, the pharmacy benefits manager
66 shall:

67 (1) Adjust the maximum allowable cost price that is the subject
68 of the appeal effective on the day after the date the appeal is decided;

69 (2) Apply the adjusted maximum allowable cost price to all
70 similarly situated pharmacies as determined by the pharmacy benefits
71 manager; and

72 (3) Allow the pharmacy that succeeded in the appeal to reverse
73 and rebill the pharmacy benefits claim giving rise to the appeal.

74 8. Appeals shall be upheld if:

75 (1) The pharmacy being reimbursed for the drug subject to the
76 maximum allowable cost pricing in question was not reimbursed as
77 required under subsection 3 of this section; or

78 (2) The drug subject to the maximum allowable cost pricing in
79 question does not meet the requirements set forth under subsection 4
80 of this section.

376.1235. 1. No health carrier or health benefit plan, as defined in
2 section 376.1350, shall impose a co-payment or coinsurance percentage charged
3 to the insured for services rendered for each date of service by a physical
4 therapist licensed under chapter 334 or an occupational therapist licensed
5 under chapter 324, for services that require a prescription, that is greater than
6 the co-payment or coinsurance percentage charged to the insured for the services
7 of a primary care physician licensed under chapter 334 for an office visit.

8 2. A health carrier or health benefit plan shall clearly state the
9 availability of physical therapy and occupational therapy coverage under its
10 plan and all related limitations, conditions, and exclusions.

11 3. Beginning September 1, [2013] 2016, the oversight division of the joint

12 committee on legislative research shall perform an actuarial analysis of the cost
13 impact to health carriers, insureds with a health benefit plan, and other private
14 and public payers if the provisions of this section **regarding occupational**
15 **therapy coverage** were enacted. By December 31, [2013,] **2016**, the director
16 of the oversight division of the joint committee on legislative research shall
17 submit a report of the actuarial findings prescribed by this section to the speaker,
18 the president pro tem, and the chairpersons of both the house of representatives
19 and senate standing committees having jurisdiction over health insurance
20 matters. If the fiscal note cost estimation is less than the cost of an actuarial
21 analysis, the actuarial analysis requirement shall be waived.

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**.

536.031. 1. There is established a publication to be known as the "Code
2 of State Regulations", which shall be published in a format and medium as
3 prescribed and in writing upon request by the secretary of state as soon as
4 practicable after ninety days following January 1, 1976, and may be republished

5 from time to time thereafter as determined by the secretary of state.

6 2. The code of state regulations shall contain the full text of all rules of
7 state agencies in force and effect upon the effective date of the first publication
8 thereof, and effective September 1, 1990, it shall be revised no less frequently
9 than monthly thereafter so as to include all rules of state agencies subsequently
10 made, amended or rescinded. The code may also include citations, references, or
11 annotations, prepared by the state agency adopting the rule or by the secretary
12 of state, to any intraagency ruling, attorney general's opinion, determination,
13 decisions, order, or other action of the administrative hearing commission, or any
14 determination, decision, order, or other action of a court interpreting, applying,
15 discussing, distinguishing, or otherwise affecting any rule published in the code.

16 3. The code of state regulations shall be published in looseleaf form in one
17 or more volumes upon request and a format and medium as prescribed by the
18 secretary of state with an appropriate index, and revisions in the text and index
19 may be made by the secretary of state as necessary and provided in written
20 format upon request.

21 4. An agency may incorporate by reference rules, regulations, standards,
22 and guidelines of an agency of the United States or a nationally or state-
23 recognized organization or association without publishing the material in
24 full. The reference in the agency rules shall fully identify the incorporated
25 material by publisher, address, and date in order to specify how a copy of the
26 material may be obtained, and shall state that the referenced rule, regulation,
27 standard, or guideline does not include any later amendments or additions;
28 **except that, hospital licensure regulations governing life safety code**
29 **standards promulgated under this chapter and chapter 197 to**
30 **implement section 197.065 may incorporate, by reference, later**
31 **additions or amendments to such rules, regulations, standards, or**
32 **guidelines as needed to consistently apply current standards of safety**
33 **and practice.** The agency adopting a rule, regulation, standard, or guideline
34 under this section shall maintain a copy of the referenced rule, regulation,
35 standard, or guideline at the headquarters of the agency and shall make it
36 available to the public for inspection and copying at no more than the actual cost
37 of reproduction. The secretary of state may omit from the code of state
38 regulations such material incorporated by reference in any rule the publication
39 of which would be unduly cumbersome or expensive.

40 5. The courts of this state shall take judicial notice, without proof, of the

41 contents of the code of state regulations.

633.420. 1. For the purposes of this section, the term "dyslexia"
2 means a disorder that is neurological in origin, characterized by
3 difficulties with accurate and fluent word recognition, and poor
4 spelling and decoding abilities that typically result from a deficit in the
5 phonological component of language, often unexpected in relation to
6 other cognitive abilities and the provision of effective classroom
7 instruction, and of which secondary consequences may include
8 problems in reading comprehension and reduced reading experience
9 that can impede growth of vocabulary and background
10 knowledge. Nothing in this section shall prohibit a district from
11 assessing students for dyslexia and offering students specialized
12 reading instruction if a determination is made that a student suffers
13 from dyslexia. Unless required by federal law, nothing in this
14 definition shall require a student with dyslexia to be automatically
15 determined eligible as a student with a disability.

16 2. There is hereby created the "Legislative Task Force on
17 Dyslexia". The joint committee on education shall provide technical
18 and administrative support as required by the task force to fulfill its
19 duties; any such support involving monetary expenses shall first be
20 approved by the chairman of the joint committee on education. The
21 task force shall meet at least quarterly and may hold meetings by
22 telephone or video conference. The task force shall advise and make
23 recommendations to the governor, joint committee on education, and
24 relevant state agencies regarding matters concerning individuals with
25 dyslexia, including education and other adult and adolescent services.

26 3. The task force shall be comprised of twenty members
27 consisting of the following:

28 (1) Two members of the senate appointed by the president pro
29 tempore of the senate, with one member appointed from the minority
30 party and one member appointed from the majority party;

31 (2) Two members of the house of representatives appointed by
32 the speaker of the house of representatives, with one member
33 appointed from the minority party and one member appointed from the
34 majority party;

35 (3) The commissioner of education, or his or her designee;

36 (4) One representative from an institution of higher education

37 located in this state with specialized expertise in dyslexia and reading
38 instruction;

39 (5) A representative from a state teachers association or the
40 Missouri National Education Association;

41 (6) A representative from the International Dyslexia Association
42 of Missouri;

43 (7) A representative from Decoding Dyslexia of Missouri;

44 (8) A representative from the Missouri Association of Elementary
45 School Principals;

46 (9) A representative from the Missouri Council of Administrators
47 of Special Education;

48 (10) A professional licensed in the state of Missouri with
49 experience diagnosing dyslexia including, but not limited to, a licensed
50 psychologist, school psychologist, or neuropsychologist;

51 (11) A speech-language pathologist with training and experience
52 in early literacy development and effective research-based intervention
53 techniques for dyslexia, including an Orton-Gillingham remediation
54 program recommended by the Missouri Speech-Language Hearing
55 Association;

56 (12) A certified academic language therapist recommended by the
57 Academic Language Therapists Association who is a resident of this
58 state;

59 (13) A representative from an independent private provider or
60 nonprofit organization serving individuals with dyslexia;

61 (14) An assistive technology specialist with expertise in
62 accessible print materials and assistive technology used by individuals
63 with dyslexia recommended by the Missouri assistive technology
64 council;

65 (15) One private citizen who has a child who has been diagnosed
66 with dyslexia;

67 (16) One private citizen who has been diagnosed with dyslexia;

68 (17) A representative of the Missouri State Council of the
69 International Reading Association; and

70 (18) A pediatrician with knowledge of dyslexia.

71 4. The members of the task force, other than the members from
72 the general assembly and ex officio members, shall be appointed by the
73 president pro tempore of the senate or the speaker of the house of

74 representatives by September 1, 2016, by alternating appointments
75 beginning with the president pro tempore of the senate. A chairperson
76 shall be selected by the members of the task force. Any vacancy on the
77 task force shall be filled in the same manner as the original
78 appointment. Members shall serve on the task force without
79 compensation.

80 5. The task force shall make recommendations for a statewide
81 system for identification, intervention, and delivery of supports for
82 students with dyslexia, including the development of resource materials
83 and professional development activities. These recommendations shall
84 be included in a report to the governor and joint committee on
85 education and shall include findings and proposed legislation and shall
86 be made available no longer than twelve months from the task force's
87 first meeting.

88 6. The recommendations and resource materials developed by
89 the task force shall:

90 (1) Identify valid and reliable screening and evaluation
91 assessments and protocols that can be used and the appropriate
92 personnel to administer such assessments in order to identify children
93 with dyslexia or the characteristics of dyslexia as part of an ongoing
94 reading progress monitoring system, multi-tiered system of supports,
95 and special education eligibility determinations in schools;

96 (2) Recommend an evidence-based reading instruction, with
97 consideration of the National Reading Panel Report and Orton-
98 Gillingham methodology principles for use in all Missouri schools, and
99 intervention system, including a list of effective dyslexia intervention
100 programs, to address dyslexia or characteristics of dyslexia for use by
101 schools in multi-tiered systems of support and for services as
102 appropriate for special education eligible students;

103 (3) Develop and implement preservice and inservice professional
104 development activities to address dyslexia identification and
105 intervention, including utilization of accessible print materials and
106 assistive technology, within degree programs such as education,
107 reading, special education, speech-language pathology, and psychology;

108 (4) Review teacher certification and professional development
109 requirements as they relate to the needs of students with dyslexia;

110 (5) Examine the barriers to accurate information on the

111 prevalence of students with dyslexia across the state and recommend
112 a process for accurate reporting of demographic data; and

113 (6) Study and evaluate current practices for diagnosing, treating,
114 and educating children in this state and examine how current laws and
115 regulations affect students with dyslexia in order to present
116 recommendations to the governor and joint committee on education.

117 7. The task force shall hire or contract for hire specialist
118 services to support the work of the task force as necessary with
119 appropriations made by the general assembly for that purpose or from
120 other available funding.

121 8. The task force authorized under this section shall expire on
122 August 31, 2018.

[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.]

[335.305. As used in this compact, the following terms shall
2 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 licensing 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.]

[335.310. 1. A license to practice registered nursing issued

2 by a home state to a resident in that state will be recognized by
3 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.

39 However, the license granted to these individuals will not be
40 recognized as granting the privilege to practice nursing in any
41 other party state unless explicitly agreed 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.]

[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.]

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

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

16 (1) The party states may submit the issues in dispute to an
17 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. Because immediate action is necessary to preserve access to
2 quality health care facilities for the citizens of Missouri, the repeal and
3 reenactment of section 197.315 of section A of this act is deemed necessary for the
4 immediate preservation of the public health, welfare, peace, and safety, and is
5 hereby declared to be an emergency act within the meaning of the constitution,
6 and the repeal and reenactment of section 197.315 of section A of this act shall
7 be in full force and effect upon its passage and approval.

Section C. The repeal of sections 335.300 to 335.355 and the enactment
2 of sections 335.360 to 335.415 of this act shall become effective on December 31,
3 2018, or upon the enactment of sections 335.360 to 335.415 of this act by no less
4 than twenty-six states and notification of such enactment to the revisor of
5 statutes by the Interstate Commission of Nurse Licensure Compact
6 Administrators, whichever occurs first.

Unofficial

Bill

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