

SECOND REGULAR SESSION

# SENATE BILL NO. 1519

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR LEWIS.

5905S.011

KRISTINA MARTIN, Secretary

## AN ACT

To amend chapter 334, RSMo, by adding thereto one new section relating to respiratory therapists.

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

Section A. Chapter 334, RSMo, is amended by adding thereto  
2 one new section, to be known as section 334.935, to read as  
3 follows:

### 334.935. SECTION 1. TITLE AND PURPOSE

2 A. The purpose of this Compact is to facilitate the  
3 interstate Practice of Respiratory Therapy with the goal of  
4 improving public access to Respiratory Therapy services by  
5 providing Respiratory Therapists licensed in a Member State  
6 the ability to practice in other Member States. The Compact  
7 preserves the regulatory authority of states to protect  
8 public health and safety through the current system of State  
9 licensure.

10 B. This Compact is designed to achieve the following  
11 objectives:

12 1. Increase public access to Respiratory Therapy  
13 services by creating a responsible, streamlined pathway for  
14 Licensees to practice in Member States with the goal of  
15 improving outcomes for patients;

16 2. Enhance States' ability to protect the public's  
17 health and safety;

18           3. Promote the cooperation of Member States in  
19 regulating the Practice of Respiratory Therapy within those  
20 Member States;

21           4. Ease administrative burdens on States by  
22 encouraging the cooperation of Member States in regulating  
23 multi-state Respiratory Therapy practice;

24           5. Support relocating Active Military Members and  
25 their spouses; and

26           6. Promote mobility and address workforce shortages.

27           SECTION 2. DEFINITIONS

28           As used in this Compact, unless the context requires  
29 otherwise, the following definitions shall apply:

30           A. "Active Military Member" means any person with a  
31 full-time duty status in the armed forces of the United  
32 States, including members of the National Guard and Reserve.

33           B. "Adverse Action" means any administrative, civil,  
34 equitable, or criminal action permitted by a State's laws  
35 which is imposed by any State authority with regulatory  
36 authority over Respiratory Therapists, such as license  
37 denial, censure, revocation, suspension, probation,  
38 monitoring of the Licensee, or restriction on the Licensee's  
39 practice, not including participation in an Alternative  
40 Program.

41           C. "Alternative Program" means a non-disciplinary  
42 monitoring or practice remediation process applicable to a  
43 Respiratory Therapist approved by any State authority with  
44 regulatory authority over Respiratory Therapists. This  
45 includes, but is not limited to, programs to which Licensees  
46 with substance abuse or addiction issues are referred in  
47 lieu of Adverse Action.

48           D. "Charter Member States" means those Member States  
49 who were the first seven states to enact the Compact into  
50 the laws of their State.

51           E. "Commission" or "Respiratory Care Interstate  
52 Compact Commission" means the government instrumentality and  
53 body politic whose membership consists of all Member States  
54 that have enacted the Compact.

55           F. "Commissioner" means the individual appointed by a  
56 Member State to serve as the member of the Commission for  
57 that Member State.

58           G. "Compact" means the Respiratory Care Interstate  
59 Compact.

60           H. "Compact Privilege" means the authorization granted  
61 by a Remote State to allow a Licensee from another Member  
62 State to practice as a Respiratory Therapist in the Remote  
63 State under the Remote State's laws and Rules. The Practice  
64 of Respiratory Therapy occurs in the Member State where the  
65 patient is located at the time of the patient encounter.

66           I. "Criminal Background Check" means the submission by  
67 the Member State of fingerprints or other biometric-based  
68 information on license applicants at the time of initial  
69 licensing for the purpose of obtaining that applicant's  
70 criminal history record information, as defined in 28 C.F.R.  
71 § 20.3(d) or successor provision, from the Federal Bureau of  
72 Investigation and the States criminal history record  
73 repository, as defined in 28 C.F.R. § 20.3(f) or successor  
74 provision.

75           J. "Data System" means the Commission's repository of  
76 information about Licensees as further set forth in Section  
77 8.

78           K. "Domicile" means the jurisdiction which is the  
79 Licensee's principal home for legal purposes.

80 L. "Encumbered License" means a license that a State's  
81 Respiratory Therapy Licensing Authority has limited in any  
82 way.

83 M. "Executive Committee" means a group of directors  
84 elected or appointed to act on behalf of, and within the  
85 powers granted to them by the Commission.

86 N. "Home State" except as set forth in Section 5,  
87 means the Member State that is the Licensee's primary  
88 Domicile.

89 O. "Home State License" means an active license to  
90 practice Respiratory Therapy in a Home State that is not an  
91 Encumbered License.

92 P. "Jurisprudence Requirement" means an assessment of  
93 an individual's knowledge of the State laws and regulations  
94 governing the Practice of Respiratory Therapy in such State.

95 Q. "Licensee" means an individual who currently holds  
96 an authorization from the State to practice as a Respiratory  
97 Therapist.

98 R. "Member State" means a State that has enacted the  
99 Compact and been admitted to the Commission in accordance  
100 with the provisions herein and Commission Rules.

101 S. "Model Compact" means the model for the Respiratory  
102 Care Interstate Compact on file with The Council of State  
103 Governments or other entity as designated by the Commission.

104 T. "Remote State" means a Member State where a  
105 Licensee is exercising or seeking to exercise the Compact  
106 Privilege.

107 U. "Respiratory Therapist" or "Respiratory Care  
108 Practitioner" means an individual who holds a credential  
109 issued by the National Board for Respiratory Care (or its  
110 successor) and holds a license in a State to practice  
111 Respiratory Therapy. For purposes of this Compact, any

other title or status adopted by a State to replace the term "Respiratory Therapist" or "Respiratory Care Practitioner" shall be deemed synonymous with "Respiratory Therapist" and shall confer the same rights and responsibilities to the Licensee under the provisions of this Compact at the time of its enactment.

V. "Respiratory Therapy," "Respiratory Therapy Practice," "Respiratory Care," "the Practice of Respiratory Care," and "the Practice of Respiratory Therapy" means the care and services provided by or under the direction and supervision of a Respiratory Therapist or Respiratory Care Practitioner.

W. "Respiratory Therapy Licensing Authority" means the agency, board, or other body of a State that is responsible for licensing and regulation of Respiratory Therapists.

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

Y. "Scope of Practice" means the procedures, actions, and processes a Respiratory Therapist licensed in a State or practicing under a Compact Privilege in a State is permitted to undertake in that State and the circumstances under which the Respiratory Therapist is permitted to undertake those procedures, actions, and processes. Such procedures, actions, and processes, and the circumstances under which they may be undertaken may be established through means, including, but not limited to, statute, regulations, case law, and other processes available to the State Respiratory Therapy Licensing Authority or other government agency.

Z. "Significant Investigative Information" means information, records, and documents received or generated by a State Respiratory Therapy Licensing Authority pursuant to an investigation for which a determination has been made

144 that there is probable cause to believe that the Licensee  
145 has violated a statute or regulation that is considered more  
146 than a minor infraction for which the State Respiratory  
147 Therapy Licensing Authority could pursue Adverse Action  
148 against the Licensee.

149 AA. "State" means any state, commonwealth, district,  
150 or territory of the United States.

151 SECTION 3. STATE PARTICIPATION IN THIS COMPACT

152 A. In order to participate in this Compact and  
153 thereafter continue as a Member State, a Member State shall:

154 1. Enact a Compact that is not materially different  
155 from the Model Compact;

156 2. License Respiratory Therapists;

157 3. Participate in the Commission's Data System;

158 4. Have a mechanism in place for receiving and  
159 investigating complaints against Licensees and Compact  
160 Privilege holders;

161 5. Notify the Commission, in compliance with the terms  
162 of this Compact and Commission Rules, of any Adverse Action  
163 against a Licensee, a Compact Privilege holder, or a license  
164 applicant;

165 6. Notify the Commission, in compliance with the terms  
166 of this Compact and Commission Rules, of the existence of  
167 Significant Investigative Information;

168 7. Comply with the Rules of the Commission;

169 8. Grant the Compact Privilege to a holder of an  
170 active Home State License and otherwise meet the applicable  
171 requirements of Section 4 in a Member State; and

172 9. Complete a Criminal Background Check for each new  
173 Licensee at the time of initial licensure.

174 a. Where expressly authorized or permitted by federal  
175 law, whether such federal law is in effect prior to, at, or

after the time of a Member State's enactment of this Compact, a Member State's enactment of this Compact shall hereby authorize the Member State's Respiratory Therapy Licensing Authority to perform Criminal Background Checks as defined herein. The absence of such a federal law as described in this subsection shall not prevent or preclude such authorization where it may be derived or granted through means other than the enactment of this Compact.

B. Nothing in this Compact prohibits a Member State from charging a fee for granting and renewing the Compact Privilege.

#### SECTION 4. COMPACT PRIVILEGE

A. To exercise the Compact Privilege under the terms and provisions of the Compact, the Licensee shall:

1. Hold and maintain an active Home State License as a Respiratory Therapist;

2. Hold and maintain an active credential from the National Board for Respiratory Care (or its successor) that would qualify them for licensure in the Remote State in which they are seeking the privilege;

3. Have not had any Adverse Action against a license within the previous two (2) years;

4. Notify the Commission that the Licensee is seeking the Compact Privilege within a Remote State(s);

5. Pay any applicable fees, including any State and Commission fees and renewal fees, for the Compact Privilege;

6. Meet any Jurisprudence Requirements established by the Remote State in which the Licensee is seeking a Compact Privilege;

7. Report to the Commission Adverse Action taken by any non-Member State within thirty (30) days from the date the Adverse Action is taken;

208           8. Report to the Commission, when applying for a  
209 Compact Privilege, the address of the Licensee's Domicile  
210 and thereafter promptly report to the Commission any change  
211 in the address of the Licensee's Domicile within thirty (30)  
212 days of the effective date of the change in address; and

213           9. Consent to accept service of process by mail at the  
214 Licensee's Domicile on record with the Commission with  
215 respect to any action brought against the Licensee by the  
216 Commission or a Member State, and consent to accept service  
217 of a subpoena by mail at the Licensee's Domicile on record  
218 with the Commission with respect to any action brought or  
219 investigation conducted by the Commission or a Member State.

220           B. The Compact Privilege is valid until the expiration  
221 date or revocation of the Home State License unless  
222 terminated pursuant to Adverse Action. The Licensee must  
223 comply with all of the requirements of subsection 4.A,  
224 above, to maintain the Compact Privilege in a Remote State.  
225 If those requirements are met, no Adverse Actions are taken,  
226 and the Licensee has paid any applicable Compact Privilege  
227 renewal fees, then the Licensee will maintain the Licensee's  
228 Compact Privilege.

229           C. A Licensee providing Respiratory Therapy in a  
230 Remote State under the Compact Privilege shall function  
231 within the Scope of Practice authorized by the Remote State  
232 for the type of Respiratory Therapist license the Licensee  
233 holds. Such procedures, actions, processes, and the  
234 circumstances under which they may be undertaken may be  
235 established through means, including, but not limited to,  
236 statute, regulations, case law, and other processes  
237 available to the State Respiratory Therapy Licensing  
238 Authority or other government agency.



239           D. If a Licensee's Compact Privilege in a Remote State  
240 is removed by the Remote State, the individual shall lose or  
241 be ineligible for the Compact privilege in that Remote State  
242 until the Compact Privilege is no longer limited or  
243 restricted by that State.

244           E. If a Home State License is encumbered, the Licensee  
245 shall lose the Compact Privilege in all Remote States until  
246 the following occur:

- 247           1. The Home State License is no longer encumbered; and  
248           2. Two (2) years have elapsed from the date on which  
249 the license is no longer encumbered due to the Adverse  
250 Action.

251           F. Once a Licensee with a restricted or limited  
252 license meets the requirements of subsection 7.E.1 and 2,  
253 the Licensee must also meet the requirements of subsection  
254 7.A to obtain a Compact Privilege in a Remote State.

255           SECTION 5. ACTIVE MILITARY MEMBER OR THEIR SPOUSE

256           A. An Active Military Member, or their spouse, shall  
257 designate a Home State where the individual has a current  
258 license in good standing. The individual may retain the  
259 Home State designation during the period the service member  
260 is on active duty.

261           B. An Active Military Member and their spouse shall  
262 not be required to pay to the Commission for a Compact  
263 Privilege any fee that may otherwise be charged by the  
264 Commission. If a Remote State chooses to charge a fee for a  
265 Compact Privilege, it may choose to charge a reduced fee or  
266 no fee to an Active Military Member and their spouse for a  
267 Compact Privilege.

268           SECTION 6. ADVERSE ACTIONS

269           A. A Member State in which a Licensee is licensed  
270 shall have authority to impose Adverse Action against the  
271 license issued by that Member State.

272           B. A Member State may take Adverse Action based on  
273 Significant Investigative Information of a Remote State or  
274 the Home State, so long as the Member State follows its own  
275 procedures for imposing Adverse Action.

276           C. Nothing in this Compact shall override a Member  
277 State's decision that participation in an Alternative  
278 Program may be used in lieu of Adverse Action and that such  
279 participation shall remain non-public if required by the  
280 Member State's laws.

281           D. A Remote State shall have the authority to:

282           1. Take Adverse Actions as set forth herein against a  
283 Licensee's Compact Privilege in that State;

284           2. Issue subpoenas for both hearings and  
285 investigations that require the attendance and testimony of  
286 witnesses, and the production of evidence.

287           a. Subpoenas may be issued by a Respiratory Therapy  
288 Licensing Authority in a Member State for the attendance and  
289 testimony of witnesses and the production of evidence.

290           b. Subpoenas issued by a Respiratory Therapy Licensing  
291 Authority in a Member State for the attendance and testimony  
292 of witnesses shall be enforced in the latter State by any  
293 court of competent jurisdiction in the latter State,  
294 according to the practice and procedure of that court  
295 applicable to subpoenas issued in proceedings pending before  
296 it.

297           c. Subpoenas issued by a Respiratory Therapy Licensing  
298 Authority in a Member State for production of evidence from  
299 another Member State shall be enforced in the latter State,  
300 according to the practice and procedure of that court

301 applicable to subpoenas issued in the proceedings pending  
302 before it.

303 d. The issuing authority shall pay any witness fees,  
304 travel expenses, mileage, and other fees required by the  
305 service statutes of the State where the witnesses or  
306 evidence are located;

307 3. Unless otherwise prohibited by State law, recover  
308 from the Licensee the costs of investigations and  
309 disposition of cases resulting from any Adverse Action taken  
310 against that Licensee;

311 4. Notwithstanding subsection 6.D.2., a Member State  
312 may not issue a subpoena to gather evidence of conduct in  
313 another Member State that is lawful in such other Member  
314 State for the purpose of taking Adverse Action against a  
315 Licensee's Compact Privilege or application for a Compact  
316 Privilege in that Member State; and

317 5. Nothing in this Compact authorizes a Member State  
318 to impose discipline against a Respiratory Therapist's  
319 Compact Privilege in that Member State for the individual's  
320 otherwise lawful practice in another State.

321 E. Joint Investigations

322 1. In addition to the authority granted to a Member  
323 State by its respective Respiratory Therapy Practice act or  
324 other applicable state law, a Member State may participate  
325 with other Member States in joint investigations of  
326 Licensees, provided, however, that a Member State receiving  
327 such a request has no obligation to respond to any subpoena  
328 issued regarding an investigation of conduct or practice  
329 that was lawful in a Member State at the time it was  
330 undertaken.

331 2. Member States shall share any Significant  
332 Investigative Information, litigation, or compliance

materials in furtherance of any joint or individual investigation initiated under the Compact. In sharing such information between Member State Respiratory Therapy Licensing Authorities, all information obtained shall be kept confidential, except as otherwise mutually agreed upon by the sharing and receiving Member State(s).

F. Nothing in this Compact may permit a Member State to take any Adverse Action against a Licensee or holder of a Compact Privilege for conduct or practice that was legal in the Member State at the time it was undertaken.

G. Nothing in this Compact may permit a Member State to take disciplinary action against a Licensee or holder of a Compact Privilege for conduct or practice that was legal in the Member State at the time it was undertaken.

#### SECTION 7. ESTABLISHMENT OF THE RESPIRATORY CARE INTERSTATE COMPACT COMMISSION

A. The Compact Member States hereby create and establish a joint government agency whose membership consists of all Member States that have enacted the Compact known as the Respiratory Care Interstate Compact Commission. The Commission is an instrumentality of the Compact Member States acting jointly and not an instrumentality of any one State. The Commission shall come into existence on or after the effective date of the Compact, as set forth in Section 11.

##### B. Membership, Voting, and Meetings

1. Each Member State shall have and be limited to one (1) Commissioner selected by that Member State's Respiratory Therapy Licensing Authority.

2. The Commissioner shall be an administrator or their designated staff member of the Member State's Respiratory Therapy Licensing Authority.

365           3. The Commission shall by Rule or bylaw establish a  
366 term of office for Commissioners and may by Rule or bylaw  
367 establish term limits.

368           4. The Commission may recommend to a Member State the  
369 removal or suspension of any Commissioner from office.

370           5. A Member State's Respiratory Therapy Licensing  
371 Authority shall fill any vacancy of its Commissioner  
372 occurring on the Commission within sixty (60) days of the  
373 vacancy.

374           6. Each Commissioner shall be entitled to one vote on  
375 all matters before the Commission requiring a vote by  
376 Commissioners.

377           7. A Commissioner shall vote in person or by such  
378 other means as provided in the bylaws. The bylaws may  
379 provide for Commissioners to meet by telecommunication,  
380 videoconference, or other means of communication.

381           8. The Commission shall meet at least once during each  
382 calendar year. Additional meetings may be held as set forth  
383 in the bylaws.

384           C. The Commission shall have the following powers:

385           1. Establish and amend the fiscal year of the  
386 Commission;

387           2. Establish and amend bylaws and policies, including  
388 but not limited to, a code of conduct and conflict of  
389 interest;

390           3. Establish and amend Rules, which shall be binding  
391 in all Member States;

392           4. Maintain its financial records in accordance with  
393 the bylaws;

394           5. Meet and take such actions as are consistent with  
395 the provisions of this Compact, the Commission's Rules, and  
396 the bylaws;

397           6. Initiate and conduct legal proceedings or actions  
398 in the name of the Commission, provided that the standing of  
399 any Respiratory Therapy Licensing Authority to sue or be  
400 sued under applicable law shall not be affected;

401           7. Maintain and certify records and information  
402 provided to a Member State as the authenticated business  
403 records of the Commission, and designate an agent to do so  
404 on the Commission's behalf;

405           8. Purchase and maintain insurance and bonds;

406           9. Accept or contract for services of personnel,  
407 including, but not limited to, employees of a Member State;

408           10. Conduct an annual financial review;

409           11. Hire employees, elect or appoint officers, fix  
410 compensation, define duties, grant such individuals  
411 appropriate authority to carry out the purposes of the  
412 Compact, and establish the Commission's personnel policies  
413 and programs relating to conflicts of interest,  
414 qualifications of personnel, and other related personnel  
415 matters;

416           12. Assess and collect fees;

417           13. Accept any and all appropriate gifts, donations,  
418 grants of money, other sources of revenue, equipment,  
419 supplies, materials, and services, and receive, utilize, and  
420 dispose of the same, provided that at all times:

421           a. The Commission shall avoid any appearance of  
422 impropriety; and

423           b. The Commission shall avoid any appearance of  
424 conflict of interest;

425           14. Lease, purchase, retain, own, hold, improve, or  
426 use any property, real, personal, or mixed, or any undivided  
427 interest therein;

428           15. Sell, convey, mortgage, pledge, lease, exchange,  
429       abandon, or otherwise dispose of any property real,  
430       personal, or mixed;

431           16. Establish a budget and make expenditures;

432           17. Borrow money in a fiscally responsible manner;

433           18. Appoint committees, including standing committees,  
434       composed of Commissioners State regulators, State  
435       legislators or their representatives, and consumer  
436       representatives, and such other interested persons as may be  
437       designated in this Compact and the bylaws;

438           19. Provide and receive information from, and  
439       cooperate with, law enforcement agencies;

440           20. Establish and elect an Executive Committee,  
441       including a chair, vice-chair, secretary, treasurer, and  
442       such other offices as the Commission shall establish by Rule  
443       or bylaw;

444           21. Enter into contracts or arrangements for the  
445       management of the affairs of the Commission;

446           22. Determine whether a State's adopted language is  
447       materially different from the Model Compact language such  
448       that the State would not qualify for participation in the  
449       Compact; and

450           23. Perform such other functions as may be necessary  
451       or appropriate to achieve the purposes of this Compact.

452           D. The Executive Committee

453           1. The Executive Committee shall have the power to act  
454       on behalf of the Commission according to the terms of this  
455       Compact. The powers, duties, and responsibilities of the  
456       Executive Committee shall include:

457           a. Overseeing the day-to-day activities of the  
458       administration of the Compact, including enforcement and

459 compliance with the provisions of the Compact, its Rules and  
460 bylaws, and other such duties as deemed necessary;

461       b. Recommending to the Commission changes to the Rules  
462 or bylaws, changes to this Compact legislation, fees charged  
463 to Compact Member States, fees charged to Licensees, and  
464 other fees;

465       c. Ensuring Compact administration services are  
466 appropriately provided, including by contract;

467       d. Preparing and recommending the budget;

468       e. Maintaining financial records on behalf of the  
469 Commission;

470       f. Monitoring Compact compliance of Member States and  
471 providing compliance reports to the Commission;

472       g. Establishing additional committees as necessary;

473       h. Exercising the powers and duties of the Commission  
474 during the interim between Commission meetings, except for  
475 adopting or amending Rules, adopting or amending bylaws, and  
476 exercising any other powers and duties expressly reserved to  
477 the Commission by Rule or bylaw; and

478       i. Performing other duties as provided in the Rules or  
479 bylaws of the Commission.

480       2. The Executive Committee shall be composed of up to  
481 nine (9) members, as further set forth in the bylaws of the  
482 Commission:

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

485       b. Two (2) ex-officio, non-voting members.

486       3. The Commission may remove any member of the  
487 Executive Committee as provided in the Commission's bylaws.

488       4. The Executive Committee shall meet at least  
489 annually.



490           a. Executive Committee meetings shall be open to the  
491 public, except that the Executive Committee may meet in a  
492 closed, non-public meeting as provided in subsection 7.F.4  
493 below;

494           b. The Executive Committee shall give advance notice  
495 of its meetings, posted on its website and as determined to  
496 provide notice to persons with an interest in the business  
497 of the Commission; and

498           c. The Executive Committee may hold a special meeting  
499 in accordance with subsection 7.F.2 below.

500           E. The Commission shall adopt and provide to the  
501 Member States an annual report.

502           F. Meetings of the Commission

503           1. All meetings of the Commission that are not closed  
504 pursuant to subsection 7.F.4 shall be open to the public.  
505 Notice of public meetings shall be posted on the  
506 Commission's website at least thirty (30) days prior to the  
507 public meeting.

508           2. Notwithstanding subsection 7.F.1, the Commission  
509 may convene an emergency public meeting by providing at  
510 least twenty-four (24) hours prior notice on the  
511 Commission's website, and any other means as provided in the  
512 Commission's Rules, for any of the reasons it may dispense  
513 with notice of proposed rulemaking under subsection 9.G.  
514 The Commission's legal counsel shall certify that one of the  
515 reasons justifying an emergency public meeting has been met.

516           3. Notice of all Commission meetings shall provide the  
517 time, date, and location of the meeting, and if the meeting  
518 is to be held or accessible via telecommunication, video  
519 conference, or other electronic means, the notice shall  
520 include the mechanism for access to the meeting.

521           4. The Commission or the Executive Committee may  
522 convene in a closed, non-public meeting for the Commission  
523 or Executive Committee to receive or solicit legal advice or  
524 to discuss:

525           a. Non-compliance of a Member State with its  
526 obligations under the Compact;

527           b. The employment, compensation, discipline or other  
528 matters, practices or procedures related to specific  
529 employees;

530           c. Current or threatened discipline of a Licensee or  
531 Compact Privilege holder by the Commission or by a Member  
532 State's Respiratory Therapy Licensing Authority;

533           d. Current, threatened, or reasonably anticipated  
534 litigation;

535           e. Negotiation of contracts for the purchase, lease,  
536 or sale of goods, services, or real estate;

537           f. Accusing any person of a crime or formally  
538 censuring any person;

539           g. Trade secrets or commercial or financial  
540 information that is privileged or confidential;

541           h. Information of a personal nature where disclosure  
542 would constitute a clearly unwarranted invasion of personal  
543 privacy;

544           i. Investigative records compiled for law enforcement  
545 purposes;

546           j. Information related to any investigative reports  
547 prepared by or on behalf of or for use of the Commission or  
548 other committee charged with responsibility of investigation  
549 or determination of compliance issues pursuant to the  
550 Compact;

551           k. Legal advice;

552           1. Matters specifically exempted from disclosure by  
553 federal or Member State law; or

554           m. Other matters as promulgated by the Commission by  
555 Rule.

556           5. If a meeting, or portion of a meeting, is closed,  
557 the presiding officer shall state that the meeting will be  
558 closed and reference each relevant exempting provision, and  
559 such reference shall be recorded in the minutes.

560           6. The Commission shall keep minutes in accordance  
561 with Commission Rules and bylaws. All documents considered  
562 in connection with an action shall be identified in such  
563 minutes. All minutes and documents of a closed meeting  
564 shall remain under seal, subject to release only by a  
565 majority vote of the Commission or order of a court of  
566 competent jurisdiction.

567           G. Financing of the Commission

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

571           2. The Commission may accept any and all appropriate  
572 revenue sources as provided herein.

573           3. The Commission may levy on and collect an annual  
574 assessment from each Member State and impose fees on  
575 Licensees of Member States to whom it grants a Compact  
576 Privilege to cover the cost of the operations and activities  
577 of the Commission and its staff. The aggregate annual  
578 assessment amount for Member States, if any, shall be  
579 allocated based upon a formula that the Commission shall  
580 promulgate by Rule.

581           4. The Commission shall not incur obligations of any  
582 kind prior to securing the funds or a loan adequate to meet  
583 the same; nor shall the Commission pledge the credit of any

584 of the Member States, except by and with the authority of  
585 the Member State.

586         5. The Commission shall keep accurate accounts of all  
587 receipts and disbursements. The receipts and disbursements  
588 of the Commission shall be subject to the financial review  
589 and accounting procedures established under its bylaws.  
590 However, all receipts and disbursements of funds handled by  
591 the Commission shall be subject to an annual financial  
592 review by a certified or licensed public accountant, and the  
593 report of the financial review shall be included in and  
594 become part of the annual report of the Commission.

595         H. Qualified Immunity, Defense, and Indemnification

596         1. Nothing herein shall be construed as a limitation  
597 on the liability of any Licensee for professional  
598 malpractice or misconduct, which shall be governed solely by  
599 any other applicable state laws.

600         2. The Member States, Commissioners, officers,  
601 executive directors, employees, and agents of the Commission  
602 shall be immune from suit and liability, both personally and  
603 in their official capacity, for any claim for damage to or  
604 loss of property or personal injury or other civil liability  
605 caused by or arising out of any actual or alleged act,  
606 error, or omission that occurred, or that the person against  
607 whom the claim is made had a reasonable basis for believing  
608 occurred within the scope of Commission employment, duties  
609 or responsibilities; provided that nothing in this  
610 subsection shall be construed to protect any such person  
611 from suit or liability for any damage, loss, injury, or  
612 liability caused by the intentional or willful or wanton  
613 misconduct of that person. The procurement of insurance of  
614 any type by the Commission shall not in any way compromise  
615 or limit the immunity granted hereunder.

616           3. The Commission shall defend any Commissioner,  
617 officer, executive director, employee, and agent of the  
618 Commission in any civil action seeking to impose liability  
619 arising out of any actual or alleged act, error, or omission  
620 that occurred within the scope of Commission employment,  
621 duties, or responsibilities, or as determined by the  
622 Commission that the person against whom the claim is made  
623 had a reasonable basis for believing occurred within the  
624 scope of Commission employment, duties, or responsibilities;  
625 provided that nothing herein shall be construed to prohibit  
626 that person from retaining their own counsel at their own  
627 expense; and provided further, that the actual or alleged  
628 act, error, or omission did not result from that person's  
629 intentional or willful or wanton misconduct.

630           4. The Commission shall indemnify and hold harmless  
631 any Commissioner, member, officer, executive director,  
632 employee, and agent of the Commission for the amount of any  
633 settlement or judgment obtained against that person arising  
634 out of any actual or alleged act, error, or omission that  
635 occurred within the scope of Commission employment, duties,  
636 or responsibilities, or that such person had a reasonable  
637 basis for believing occurred within the scope of Commission  
638 employment, duties, or responsibilities, provided that the  
639 actual or alleged act, error, or omission did not result  
640 from the intentional or willful or wanton misconduct of that  
641 person.

642           5. Nothing in this Compact shall be interpreted to  
643 waive or otherwise abrogate a Member State's state action  
644 immunity or state action affirmative defense with respect to  
645 antitrust claims under the Sherman Act, Clayton Act, or any  
646 other State or federal antitrust or anticompetitive law or  
647 regulation.

648           6. Nothing in this Compact shall be construed to be a  
649 waiver of sovereign immunity by the Member States or by the  
650 Commission.

651           SECTION 8. DATA SYSTEM

652           A. The Commission shall provide for the development,  
653 maintenance, operation, and utilization of a coordinated  
654 database and reporting system containing licensure, Adverse  
655 Action, and the presence of Significant Investigative  
656 Information.

657           B. Notwithstanding any other provision of State law to  
658 the contrary, a Member State shall submit a uniform data set  
659 to the Data System as required by the Rules of the  
660 Commission, including but not limited to:

- 661           1. Identifying information;
  - 662           2. Licensure data;
  - 663           3. Adverse Actions against a Licensee, license  
664 applicant, or Compact Privilege holder and information  
665 related thereto;
  - 666           4. Non-confidential information related to Alternative  
667 Program participation, the beginning and ending dates of  
668 such participation, and other information related to such  
669 participation not made confidential under Member State law;
  - 670           5. Any denial of application for licensure, and the  
671 reason(s) for such denial;
  - 672           6. The presence of current Significant Investigative  
673 Information; and
  - 674           7. Other information that may facilitate the  
675 administration of this Compact or the protection of the  
676 public, as determined by the Rules of the Commission.
- 677           C. No Member State shall submit any information which  
678 constitutes criminal history record information, as defined

679 by applicable federal law, to the Data System established  
680 hereunder.

681 D. The records and information provided to a Member  
682 State pursuant to this Compact or through the Data System,  
683 when certified by the Commission or an agent thereof, shall  
684 constitute the authenticated business records of the  
685 Commission, and shall be entitled to any associated hearsay  
686 exception in any relevant judicial, quasi-judicial or  
687 administrative proceedings in a Member State.

688 E. Significant Investigative Information pertaining to  
689 a Licensee in any Member State will only be available to  
690 other Member States.

691 F. It is the responsibility of the Member States to  
692 report any Adverse Action against a Licensee and to monitor  
693 the database to determine whether Adverse Action has been  
694 taken against a Licensee. Adverse Action information  
695 pertaining to a Licensee in any Member State will be  
696 available to any other Member State.

697 G. Member States contributing information to the Data  
698 System may designate information that may not be shared with  
699 the public without the express permission of the  
700 contributing State.

701 H. Any information submitted to the Data System that  
702 is subsequently expunged pursuant to federal law or the laws  
703 of the Member State contributing the information shall be  
704 removed from the Data System.

#### 705 SECTION 9. RULEMAKING

706 A. The Commission shall promulgate reasonable Rules in  
707 order to effectively and efficiently implement and  
708 administer the purposes and provisions of the Compact. A  
709 Rule shall be invalid and have no force or effect only if a  
710 court of competent jurisdiction holds that the Rule is

711 invalid because the Commission exercised its rulemaking  
712 authority in a manner that is beyond the scope and purposes  
713 of the Compact, or the powers granted hereunder, or based  
714 upon another applicable standard of review.

715 B. For purposes of the Compact, the Rules of the  
716 Commission shall have the force of law in each Member State.

717 C. The Commission shall exercise its rulemaking powers  
718 pursuant to the criteria set forth in this section and the  
719 Rules adopted thereunder. Rules shall become binding as of  
720 the date specified in each Rule.

721 D. If a majority of the legislatures of the Member  
722 States rejects a Rule or portion of a Rule, by enactment of  
723 a statute or resolution in the same manner used to adopt the  
724 Compact within four (4) years of the date of adoption of the  
725 Rule, then such Rule shall have no further force and effect  
726 in any Member State.

727 E. Rules shall be adopted at a regular or special  
728 meeting of the Commission.

729 F. Prior to adoption of a proposed Rule, the  
730 Commission shall hold a public hearing and allow persons to  
731 provide oral and written comments, data, facts, opinions,  
732 and arguments.

733 G. Prior to adoption of a proposed Rule by the  
734 Commission, and at least thirty (30) days in advance of the  
735 meeting at which the Commission will hold a public hearing  
736 on the proposed Rule, the Commission shall provide a notice  
737 of proposed rulemaking:

738 1. On the website of the Commission or other publicly  
739 accessible platform;

740 2. To persons who have requested notice of the  
741 Commission's notices of proposed rulemaking, and



742           3. In such other way(s) as the Commission may by Rule  
743 specify.

744           H. The notice of proposed rulemaking shall include:

745           1. The time, date, and location of the public hearing  
746 at which the Commission will hear public comments on the  
747 proposed Rule and, if different, the time, date, and  
748 location of the meeting where the Commission will consider  
749 and vote on the proposed Rule;

750           2. If the hearing is held via telecommunication, video  
751 conference, or other electronic means, the Commission shall  
752 include the mechanism for access to the hearing in the  
753 notice of proposed rulemaking;

754           3. The text of the proposed Rule and the reason  
755 therefor;

756           4. A request for comments on the proposed Rule from  
757 any interested person; and

758           5. The manner in which interested persons may submit  
759 written comments.

760           I. All hearings will be recorded. A copy of the  
761 recording and all written comments and documents received by  
762 the Commission in response to the proposed Rule shall be  
763 available to the public.

764           J. Nothing in this section shall be construed as  
765 requiring a separate hearing on each Rule. Rules may be  
766 grouped for the convenience of the Commission at hearings  
767 required by this section.

768           K. The Commission shall, by majority vote of all  
769 Commissioners, take final action on the proposed Rule based  
770 on the rulemaking record and the full text of the Rule.

771           1. The Commission may adopt changes to the proposed  
772 Rule provided the changes are consistent with the original  
773 purpose of the proposed Rule.

774           2. The Commission shall provide an explanation of the  
775 reasons for substantive changes made to the proposed Rule as  
776 well as reasons for substantive changes not made that were  
777 recommended by commenters.

778           3. The Commission shall determine a reasonable  
779 effective date for the Rule. Except for an emergency as  
780 provided in subsection 9.L, the effective date of the Rule  
781 shall be no sooner than thirty (30) days after issuing the  
782 notice that it adopted or amended the Rule.

783           L. Upon determination that an emergency exists, the  
784 Commission may consider and adopt an emergency Rule with  
785 twenty-four (24) hours' notice, and with opportunity to  
786 comment, provided that the usual rulemaking procedures  
787 provided in the Compact and in this section shall be  
788 retroactively applied to the Rule as soon as reasonably  
789 possible, in no event later than ninety (90) days after the  
790 effective date of the Rule. For the purposes of this  
791 provision, an emergency Rule is one that must be adopted  
792 immediately in order to:

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

795           2. Prevent a loss of Commission or Member State funds;

796           3. Meet a deadline for the promulgation of a Rule that  
797 is established by federal law or Rule; or

798           4. Protect public health and safety.

799           M. The Commission or an authorized committee of the  
800 Commission may direct revisions to a previously adopted Rule  
801 for purposes of correcting typographical errors, errors in  
802 format, errors in consistency, or grammatical errors.  
803 Public notice of any revisions shall be posted on the  
804 website of the Commission. The revision shall be subject to  
805 challenge by any person for a period of thirty (30) days

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

N. No Member State's rulemaking process or procedural requirements shall apply to the Commission.

1. The Commission shall have no authority over any Member State's rulemaking process or procedural requirements that do not pertain to the Compact.

O. Nothing in this Compact, nor any Rule or regulation of the Commission, shall be construed to limit, restrict, or in any way reduce the ability of a Member State to enact and enforce laws, regulations, or other Rules related to the Practice of Respiratory Therapy in that State, where those laws, regulations, or other Rules are not inconsistent with the provisions of this Compact.

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

##### A. Oversight

1. The executive and judicial branches of State government in each Member State shall enforce this Compact and take all actions necessary and appropriate to implement the Compact.

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

838 alternative dispute resolution proceedings. Nothing herein  
839 shall affect or limit the selection or propriety of venue in  
840 any action against a Licensee for professional malpractice,  
841 misconduct or any such similar matter.

842 3. The Commission shall be entitled to receive service  
843 of process in any proceeding regarding the enforcement or  
844 interpretation of the Compact and shall have standing to  
845 intervene in such a proceeding for all purposes. Failure to  
846 provide the Commission service of process shall render a  
847 judgment or order void as to the Commission, this Compact,  
848 or promulgated Rules.

849 B. Default, Technical Assistance, and Termination

850 1. If the Commission determines that a Member State  
851 has defaulted in the performance of its obligations or  
852 responsibilities under this Compact or the promulgated  
853 Rules, the Commission shall provide written notice to the  
854 defaulting State. The notice of default shall describe the  
855 default, the proposed means of curing the default, and any  
856 other action that the Commission may take, and shall offer  
857 training and specific technical assistance regarding the  
858 default.

859 2. The Commission shall provide a copy of the notice  
860 of default to the other Member States.

861 C. If a State in default fails to cure the default,  
862 the defaulting State may be terminated from the Compact upon  
863 an affirmative vote of a majority of the Commissioners of  
864 the Member States, and all rights, privileges and benefits  
865 conferred on that State by this Compact may be terminated on  
866 the effective date of termination. A cure of the default  
867 does not relieve the offending State of obligations or  
868 liabilities incurred during the period of default.

869           D. Termination of membership in the Compact shall be  
870 imposed only after all other means of securing compliance  
871 have been exhausted. Notice of intent to suspend or  
872 terminate shall be given by the Commission to the governor,  
873 the majority and minority leaders of the defaulting State's  
874 legislature, the defaulting State's Respiratory Therapy  
875 Licensing Authority and each of the Member States'  
876 Respiratory Therapy Licensing Authorities.

877           E. A State that has been terminated is responsible for  
878 all assessments, obligations, and liabilities incurred  
879 through the effective date of termination, including  
880 obligations that extend beyond the effective date of  
881 termination, if necessary.

882           F. Upon the termination of a State's membership from  
883 this Compact, that State shall immediately provide notice to  
884 all Licensees and Compact Privilege holders (of which the  
885 Commission has a record) within that State of such  
886 termination. The terminated State shall continue to  
887 recognize all licenses granted pursuant to this Compact for  
888 a minimum of one hundred eighty (180) days after the date of  
889 said notice of termination.

890           G. The Commission shall not bear any costs related to  
891 a State that is found to be in default or that has been  
892 terminated from the Compact, unless agreed upon in writing  
893 between the Commission and the defaulting State.

894           H. The defaulting State may appeal the action of the  
895 Commission by petitioning the U.S. District Court for the  
896 District of Columbia or the federal district where the  
897 Commission has its principal offices. The prevailing party  
898 shall be awarded all costs of such litigation, including  
899 reasonable attorney's fees.

900           I. Dispute Resolution

901           1. Upon request by a Member State, the Commission  
902 shall attempt to resolve disputes related to the Compact  
903 that arise among Member States and between Member and non-  
904 Member States.

905           2. The Commission shall promulgate a Rule providing  
906 for both mediation and binding dispute resolution for  
907 disputes, as appropriate.

908           J. Enforcement

909           1. By majority vote, as may be further provided by  
910 Rule, the Commission may initiate legal action against a  
911 Member State in default in the United States District Court  
912 for the District of Columbia or the federal district where  
913 the Commission has its principal offices to enforce  
914 compliance with the provisions of the Compact and its  
915 promulgated Rules. A Member State by enactment of this  
916 Compact consents to venue and jurisdiction in such court for  
917 the purposes set forth herein. The relief sought may  
918 include both injunctive relief and damages. In the event  
919 judicial enforcement is necessary, the prevailing party  
920 shall be awarded all costs of such litigation, including  
921 reasonable attorney's fees. The remedies herein shall not  
922 be the exclusive remedies of the Commission. The Commission  
923 may pursue any other remedies available under federal or the  
924 defaulting Member State's law.

925           2. A Member State may initiate legal action against  
926 the Commission in the U.S. District Court for the District  
927 of Columbia or the federal district where the Commission has  
928 its principal offices to enforce compliance with the  
929 provisions of the Compact and its promulgated Rules. The  
930 relief sought may include both injunctive relief and  
931 damages. In the event judicial enforcement is necessary,

the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

3. No person other than a Member State shall enforce this Compact against the Commission.

#### SECTION 11. EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT

A. The Compact shall come into effect on the date on which the Compact statute is enacted into law in the seventh Member State ("Effective Date").

1. On or after the Effective Date of the Compact, the Commission shall convene and review the enactment of each of the first seven Member States ("Charter Member States") to determine if the statute enacted by each such Charter Member State is materially different than the Model Compact.

a. A Charter Member State whose enactment is found to be materially different from the Model Compact shall be entitled to the default process set forth in Section 10.

b. If any Member State is later found to be in default, or is terminated or withdraws from the Compact, the Commission shall remain in existence and the Compact shall remain in effect even if the number of Member States should be less than seven.

2. Member States enacting the Compact subsequent to the seven initial Charter Member States shall be subject to the process set forth herein and Commission Rule to determine if their enactments are materially different from the Model Compact and whether they qualify for participation in the Compact.

3. All actions taken for the benefit of the Commission or in furtherance of the purposes of the administration of the Compact prior to the effective date of the Compact or the Commission coming into existence shall be considered to be actions of the Commission unless specifically repudiated

964 by the Commission. The Commission shall own and have all  
965 rights to any intellectual property developed on behalf or  
966 in furtherance of the Commission by individuals or entities  
967 involved in organizing or establishing the Commission, as  
968 may be further set forth in Rules of the Commission.

969 4. Any State that joins the Compact subsequent to the  
970 Commission's initial adoption of the Rules and bylaws shall  
971 be subject to the Rules and bylaws as they exist on the date  
972 on which the Compact becomes law in that State. Any Rule  
973 that has been previously adopted by the Commission shall  
974 have the full force and effect of law on the date the  
975 Compact becomes law in that State.

976 B. Any Member State may withdraw from this Compact by  
977 enacting a statute repealing the same.

978 1. A Member State's withdrawal shall not take effect  
979 until one hundred eighty (180) days after enactment of the  
980 repealing statute.

981 2. Withdrawal shall not affect the continuing  
982 requirement of the withdrawing State's Respiratory Therapy  
983 Licensing Authority to comply with the investigative and  
984 Adverse Action reporting requirements of this Compact prior  
985 to the effective date of withdrawal.

986 3. Upon the enactment of a statute withdrawing from  
987 this Compact, a State shall immediately provide notice of  
988 such withdrawal to all Licensees and Compact Privilege  
989 holders (of which the Commission has a record) within that  
990 State. Notwithstanding any subsequent statutory enactment  
991 to the contrary, such withdrawing State shall continue to  
992 recognize all licenses granted pursuant to this Compact for  
993 a minimum of one hundred eighty (180) days after the date of  
994 such notice of withdrawal.



995 C. Nothing contained in this Compact shall be  
996 construed to invalidate or prevent any licensure agreement  
997 or other cooperative arrangement between a Member State and  
998 a non-Member State that does not conflict with the  
999 provisions of this Compact.

1000 D. This Compact may be amended by the Member States.  
1001 No amendment to this Compact shall become effective and  
1002 binding upon any Member State until it is enacted into the  
1003 laws of all Member States.

1004 SECTION 12. CONSTRUCTION AND SEVERABILITY

1005 A. This Compact and the Commission's rulemaking  
1006 authority shall be liberally construed so as to effectuate  
1007 the purposes and the implementation and administration of  
1008 the Compact. Provisions of the Compact expressly  
1009 authorizing or requiring the promulgation of Rules shall not  
1010 be construed to limit the Commission's rulemaking authority  
1011 solely for those purposes.

1012 B. The provisions of this Compact shall be severable,  
1013 and if any phrase, clause, sentence or provision of this  
1014 Compact is held by a court of competent jurisdiction to be  
1015 contrary to the constitution of any Member State, a State  
1016 seeking participation in the Compact, or of the United  
1017 States, or the applicability thereof to any government,  
1018 agency, person or circumstance is held to be  
1019 unconstitutional by a court of competent jurisdiction, the  
1020 validity of the remainder of this Compact and the  
1021 applicability thereof to any other government, agency,  
1022 person or circumstance shall not be affected hereby.

1023 C. Notwithstanding subsection 12.B of this section,  
1024 the Commission may deny a State's participation in the  
1025 Compact or, in accordance with the requirements of Section  
1026 10, terminate a Member State's participation in the Compact,

1027 if it determines that a constitutional requirement of a  
1028 Member State is a material departure from the Compact.  
1029 Otherwise, if this Compact shall be held to be contrary to  
1030 the constitution of any Member State, the Compact shall  
1031 remain in full force and effect as to the remaining Member  
1032 States and in full force and effect as to the Member State  
1033 affected as to all severable matters.

1034 SECTION 13. CONSISTENT EFFECT AND CONFLICT WITH OTHER  
1035 STATE LAWS

1036 A. Nothing herein shall prevent or inhibit the  
1037 enforcement of any other law of a Member State that is not  
1038 inconsistent with the Compact.

1039 B. Any laws, statutes, regulations, or other legal  
1040 requirements in a Member State in conflict with the Compact  
1041 are superseded to the extent of the conflict, including any  
1042 subsequently enacted State laws.

1043 C. All permissible agreements between the Commission  
1044 and the Member States are binding in accordance with their  
1045 terms.

1046 D. Other than as expressly set forth herein, nothing  
1047 in this Compact will impact initial licensure.

✓