

## HOUSE BILL No. 2069

By Committee on Commerce, Labor and Economic Development

Requested by William Wilk on behalf of the Kansas Chamber of Commerce

1-23

1 AN ACT concerning health and healthcare; relating to school  
2 psychologists; enacting the school psychologist compact to provide  
3 interstate practice privileges.

4  
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. This section shall be known and may be cited as the school  
7 psychologist compact.

### 8 SECTION 1—PURPOSE

9 The purpose of this compact is to facilitate the interstate practice of  
10 school psychology in educational or school settings and in so doing to  
11 improve the availability of school psychological services to the public.  
12 This compact is intended to establish a pathway to allow school  
13 psychologists to obtain equivalent licenses to provide school psychological  
14 services in any member state. In this way, this compact shall enable the  
15 member states to ensure that safe and effective school psychological  
16 services are available and delivered by appropriately qualified  
17 professionals in their educational settings.

18 To facilitate the objectives described above, this compact:

19 (a) Enables school psychologists who qualify for receipt of an  
20 equivalent license to practice in other member states without first  
21 satisfying burdensome and duplicative requirements;

22 (b) promotes the mobility of school psychologists between and  
23 among the member states in order to address workforce shortages and to  
24 ensure that safe and reliable school psychological services are available in  
25 each member state;

26 (c) enhances the public accessibility of school psychological services  
27 by increasing the availability of qualified, licensed school psychologists  
28 through the establishment of an efficient and streamlined pathway for  
29 licensees to practice in other member states;

30 (d) preserves and respects the authority of each member state to  
31 protect the health and safety of its residents by ensuring that only  
32 qualified, licensed professionals are authorized to provide school  
33 psychological services within that state;

34 (e) requires school psychologists practicing within a member state to  
35 comply with the scope of practice laws present in the state where the

1 school psychological services are being provided;

2 (f) promotes cooperation between the member states in regulating the  
3 practice of school psychology within those states; and

4 (g) facilitates the relocation of military members and their spouses  
5 who are licensed to provide school psychological services.

6 SECTION 2—DEFINITIONS

7 As used in this compact:

8 (a) "Active military member" means any person with full-time duty  
9 status in the armed forces of the United States, including members of the  
10 national guard and reserve.

11 (b) "Adverse action" means disciplinary action or encumbrance  
12 imposed on a license by a state licensing authority.

13 (c) "Alternative program" means a non-disciplinary, prosecutorial  
14 diversion, monitoring or practice remediation process entered into in lieu  
15 of an adverse action that is applicable to a school psychologist and  
16 approved by the state licensing authority of a member state where the  
17 participating school psychologist is licensed. This includes, but is not  
18 limited to, programs that licensees with substance abuse or addiction  
19 issues may be referred in lieu of an adverse action.

20 (d) "Commissioner" means the individual appointed by a member  
21 state to serve as the representative to the commission for that member  
22 state.

23 (e) "Compact" means this school psychologist interstate licensure  
24 compact.

25 (f) "Continuing professional education" means a requirement,  
26 imposed by a member state as a condition of license renewal to provide  
27 evidence of successful participation in professional educational activities  
28 relevant to the provision of school psychological services.

29 (g) "Criminal background check" means the submission of  
30 fingerprints or other biometric information for a license applicant for the  
31 purpose of obtaining that applicant's criminal history record information,  
32 as defined in 28 C.F.R. § 20.3(d), and the state's criminal history record  
33 repository, as defined in 28 C.F.R. § 20.3(f).

34 (h) "Doctoral level degree" means a graduate degree program that  
35 consists of at least 90 graduate semester hours in the field of school  
36 psychology, including a supervised internship.

37 (i) "Encumbered license" means a license that a state licensing  
38 authority has limited in any way other than through an alternative  
39 program, including temporary or provisional licenses.

40 (j) "Executive Committee" means the commission's chair, vice chair,  
41 secretary and treasurer and any other commissioners as may be determined  
42 by commission rule or bylaw.

43 (k) "Equivalent license" means a license to practice school

1 psychology that a member state has identified as a license that may be  
2 provided to school psychologists from other member states pursuant to this  
3 compact.

4 (l) "Home state" means the member state that issued the home state  
5 license to the licensee and is the licensee's primary state of practice.

6 (m) "Home state license" means the license that is not an encumbered  
7 license issued by the home state to provide school psychological services.

8 (n) "License" means a current license, certification or other  
9 authorization granted by a member state's licensing authority that permits  
10 an individual to provide school psychological services.

11 (o) "Licensee" means an individual who holds a license from a  
12 member state to provide school psychological services.

13 (p) "Member state" means a state that has enacted the compact and  
14 been admitted to the commission in accordance with the provisions herein  
15 and commission rules.

16 (q) "Model compact" means the model language for the school  
17 psychologist interstate licensure compact on file with the council of state  
18 governments or other entity as designated by the commission.

19 (r) "Practice of school psychology" means the delivery school  
20 psychological services.

21 (s) "Qualifying national exam" means a national licensing  
22 examination endorsed by the national association of school psychologists  
23 and any other exam as approved by the rules of the commission.

24 (t) "Qualifying school psychologist education program" means an  
25 education program that awards a specialist-level degree or doctoral-level  
26 degree or equivalent upon completion and is approved by the rules of the  
27 commission as meeting the necessary minimum educational standards to  
28 ensure that its graduates are ready, qualified and able to engage in the  
29 practice of school psychology.

30 (u) "Remote state" means a member state other than the home state  
31 where a licensee holds a license through the compact.

32 (v) "Rule" means a regulation promulgated by an entity, including,  
33 but not limited to, the commission and the state licensing authority of each  
34 member state that has the force of law.

35 (w) "School psychological services" means academic, mental and  
36 behavioral health services, including assessment, prevention, consultation  
37 and collaboration, intervention and evaluation provided by a school  
38 psychologist in a school, as outlined in applicable professional standards  
39 as determined by commission rule.

40 (x) "School psychologist" means an individual who has met the  
41 requirements to obtain a home state license that legally conveys the  
42 professional title of school psychologist or its equivalent as determined by  
43 the rules of the commission.

1 (y) "School psychologist interstate licensure compact commission" or  
2 "commission" means the joint government agency established by this  
3 compact whose membership consists of representatives from each member  
4 state that has enacted the compact, and as further described in section 7.

5 (z) "Scope of practice" means the procedures, actions and processes a  
6 school psychologist licensed in a state is permitted to undertake in that  
7 state and the circumstances under which that licensee is permitted to  
8 undertake those procedures, actions and processes. Such procedures,  
9 actions and processes, and the circumstances under which they may be  
10 undertaken, may be established through means including, but not limited to,  
11 statute, regulations, case law and other processes available to the state  
12 licensing authority or other government agency.

13 (aa) "Specialist-level degree" means a degree program that requires  
14 at least 60 graduate semester hours or equivalent in the field of school  
15 psychology, including a supervised internship.

16 (bb) "State" means any state, commonwealth, district or territory of  
17 the United States of America.

18 (cc) "State licensing authority" means a member state's regulatory  
19 body responsible for issuing licenses or otherwise overseeing the practice  
20 of school psychology.

21 (dd) "State specific requirement" means a requirement for licensure  
22 covered in coursework or examination that includes content of unique  
23 interest to the state.

24 (ee) "Unencumbered license" means a license that authorizes a  
25 licensee to engage in the full and unrestricted practice of school  
26 psychology.

### 27 SECTION 3—STATE PARTICIPATION IN THE COMPACT

28 (a) To be eligible to join this compact and to maintain eligibility as a  
29 member state, a state must:

30 (1) Enact a compact statute that is not materially different from the  
31 model compact as defined in the commission's rules;

32 (2) participate in the sharing of information with other member states  
33 as reasonably necessary to accomplish the objectives of this compact and  
34 as further defined in section 8;

35 (3) identify and maintain with the commission a list of equivalent  
36 licenses available to licensees who hold a home state license under this  
37 compact;

38 (4) have a mechanism in place for receiving and investigating  
39 complaints about licensees;

40 (5) notify the commission, in compliance with the terms of the  
41 compact and the commission's rules, of any adverse action taken against a  
42 licensee or of the availability of investigative information that relates to a  
43 licensee or applicant for licensure;

1 (6) require that applicants for a home state license have:

2 (A) Taken and passed a qualifying national exam as defined by the  
3 rules of the commission; and

4 (B) completed a minimum of 1200 hours of supervised internship and  
5 at least 600 of such hours must have been completed in a school prior to  
6 being approved for licensure; and

7 (C) graduated from a qualifying school psychologist education  
8 program; and

9 (7) comply with the terms of this compact and the rules of the  
10 commission.

11 (b) Each member state shall grant an equivalent license to practice  
12 school psychology in that state upon application by a licensee who  
13 satisfies the criteria of section 4(a). Each member state shall grant renewal  
14 of the equivalent license to a licensee who satisfies the criteria of section  
15 4(b).

16 (c) Member states may set and collect a fee for granting an equivalent  
17 license.

18 SECTION 4—SCHOOL PSYCHOLOGIST PARTICIPATION IN THE  
19 COMPACT

20 (a) To obtain and maintain an equivalent license from a remote state  
21 under this compact, a licensee must:

22 (1) Hold and maintain an active home state license;

23 (2) satisfy any applicable state specific requirements established by  
24 the member state after an equivalent license is granted;

25 (3) complete any administrative or application requirements that the  
26 commission may establish by rule and pay any associated fees;

27 (4) complete any requirements for renewal in the home state,  
28 including applicable continuing professional education requirements; and

29 (5) upon their application to receive a license under this compact,  
30 undergo a criminal background check in the member state where the  
31 equivalent license is sought in accordance with the laws and regulations of  
32 such member state.

33 (b) To renew an equivalent license in a member state other than the  
34 home state, a licensee must only apply for renewal, complete a background  
35 check and pay renewal fees as determined by the licensing authority.

36 SECTION 5—ACTIVE MILITARY MEMBERS OR THEIR SPOUSES

37 A licensee who is an active military member or is the spouse of an  
38 active military member shall be deemed to hold a home state license in any  
39 of the following locations:

40 (a) The licensee's permanent residence;

41 (b) a member state that is the licensee's primary state of practice; or

42 (c) a member state where the licensee has relocated pursuant to a  
43 permanent change of station (PCS).

## 1 SECTION 6—DISCIPLINE AND ADVERSE ACTIONS

2 (a) Nothing in this compact shall be deemed or construed to limit the  
3 authority of a member state to investigate or impose disciplinary measures  
4 on licensees according to the state practice laws thereof.

5 (b) Member states shall be authorized to receive and shall provide,  
6 files and information regarding the investigation and discipline, if any, of  
7 licensees in other member states upon request. Any member state receiving  
8 such information or files shall protect and maintain the security and  
9 confidentiality of such information or files, in at least the same manner  
10 that it maintains its own investigatory or disciplinary files and information.  
11 Prior to disclosing any disciplinary or investigatory information received  
12 from another member state, the disclosing state shall communicate its  
13 intention and purpose for such disclosure to the member state that  
14 originally provided that information.

15 SECTION 7—ESTABLISHMENT OF THE SCHOOL PSYCHOLOGIST  
16 INTERSTATE LICENSURE COMPACT COMMISSION

17 (a) The member states hereby create and establish a joint government  
18 agency whose membership consists of all member states that have enacted  
19 the compact, and this agency shall be known as the school psychologist  
20 interstate licensure compact commission. The commission is an  
21 instrumentality of the member states acting jointly and not an  
22 instrumentality of any one state. The commission shall come into existence  
23 on or after the effective date of the compact as set forth in section 11.

24 (b) Membership, voting and meetings.

25 (1) Each member state shall have and be limited to one delegate  
26 selected by that member state's state licensing authority.

27 (2) The delegate shall be the primary administrative officer of the  
28 member state licensing authority or their designee who is an employee of  
29 the member state licensing authority.

30 (3) The commission shall by rule or bylaw establish a term of office  
31 for delegates and may by rule or bylaw establish term limits.

32 (4) The commission may recommend removal or suspension of any  
33 delegate from office.

34 (5) A member state's licensing authority shall fill any vacancy of its  
35 delegate occurring on the commission within 60 days of the vacancy.

36 (6) Each delegate shall be entitled to one vote on all matters before  
37 the commission requiring a vote by commission delegates.

38 (7) A delegate shall vote in person or by such other means as  
39 provided in the bylaws. The bylaws may provide for delegates to meet by  
40 telecommunication, video conference or other means of communication.

41 (8) The commission shall meet at least once during each calendar  
42 year. Additional meetings may be held as set forth in the bylaws. The  
43 commission may meet by telecommunication, video conference or other

1 similar electronic means.

2 (c) The commission shall have the following powers:

3 (1) Establish the fiscal year of the commission;

4 (2) establish code of conduct and conflict of interest policies;

5 (3) establish and amend rules and bylaws;

6 (4) establish the procedure through which a licensee may change their  
7 home state;

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

9 (6) meet and take such actions as are consistent with the provisions of  
10 this compact, the commission's rules and the bylaws;

11 (7) initiate and conclude legal proceedings or actions in the name of  
12 the commission, provided that the standing of any member state licensing  
13 authority to sue or be sued under applicable law shall not be affected;

14 (8) maintain and certify records and information provided to a  
15 member state as the authenticated business records of the commission and  
16 designate an agent to do so on the commission's behalf;

17 (9) purchase and maintain insurance and bonds;

18 (10) borrow, accept or contract for services of personnel, including,  
19 but not limited to, employees of a member state;

20 (11) conduct an annual financial review;

21 (12) hire employees, elect or appoint officers, fix compensation,  
22 define duties, grant such individuals appropriate authority to carry out the  
23 purposes of the compact and establish the commission's personnel policies  
24 and programs relating to conflicts of interest, qualifications of personnel  
25 and other related personnel matters;

26 (13) assess and collect fees;

27 (14) accept any and all appropriate gifts, donations, grants of money,  
28 other sources of revenue, equipment, supplies, materials and services, and  
29 receive, utilize and dispose of the same, provided that at all times the  
30 commission shall avoid any appearance of impropriety or conflict of  
31 interest;

32 (15) lease, purchase, retain, own, hold, improve or use any property,  
33 real, personal or mixed or any undivided interest in such property;

34 (16) sell, convey, mortgage, pledge, lease, exchange, abandon or  
35 otherwise dispose of any property real, personal or mixed;

36 (17) establish a budget and make expenditures;

37 (18) borrow money;

38 (19) appoint committees, including standing committees, composed  
39 of members, state regulators, state legislators or their representatives, and  
40 consumer representatives, and such other interested persons as may be  
41 designated in this compact and the bylaws;

42 (20) provide and receive information from, and cooperate with, law  
43 enforcement agencies;

1 (21) establish and elect an executive committee, including a chair and  
2 a vice chair;

3 (22) determine whether a state's adopted language is materially  
4 different from the model compact language such that the state would not  
5 qualify for participation in the compact; and

6 (23) perform such other functions as may be necessary or appropriate  
7 to achieve the purposes of this compact.

8 (d) The executive committee.

9 (1) The executive committee shall have the power to act on behalf of  
10 the commission according to the terms of this compact. The powers, duties  
11 and responsibilities of the executive committee shall include:

12 (A) Oversee the day-to-day activities of the administration of the  
13 compact, including enforcement and compliance with the provisions of the  
14 compact, its rules and bylaws and other such duties as deemed necessary;

15 (B) recommend to the commission changes to the rules or bylaws,  
16 changes to this compact legislation, fees charged to member states, fees  
17 charged to licensees and other fees;

18 (C) ensure compact administration services are appropriately  
19 provided, including by contract;

20 (D) prepare and recommend the budget;

21 (E) maintain financial records on behalf of the commission;

22 (F) monitor compact compliance of member states and provide  
23 compliance reports to the commission;

24 (G) establish additional committees as necessary;

25 (H) exercise the powers and duties of the commission during the  
26 interim between commission meetings, except for adopting or amending  
27 rules, adopting or amending bylaws and exercising any other powers and  
28 duties expressly reserved to the commission by rule or bylaw; and

29 (I) other duties as provided in the rules or bylaws of the commission.

30 (2) The executive committee shall be composed of up to seven  
31 members:

32 (A) The chair and vice chair of the commission shall be voting  
33 members of the executive committee; and

34 (B) The commission shall elect five voting members from the current  
35 membership of the commission.

36 (2) The commission may remove any member of the executive  
37 committee as provided in the commission's bylaws.

38 (3) The executive committee shall meet at least annually.

39 (A) Executive committee meetings shall be open to the public, except  
40 that the executive committee may meet in a closed, nonpublic meeting as  
41 provided in subsection (f)(2).

42 (B) The executive committee shall give 30 days' notice of its  
43 meetings, posted on its website and as determined to provide notice to

1 persons with an interest in the business of the commission.

2 (C) The executive committee may hold a special meeting in  
3 accordance with subsection

4 (f)(1)(B).

5 (e) The commission shall adopt and provide to the member states an  
6 annual report.

7 (f) Meetings of the commission.

8 (1) All meetings shall be open to the public, except that the  
9 commission may meet in a closed, nonpublic meeting as provided in  
10 subsection (f)(2).

11 (A) Public notice for all meetings of the full commission of meetings  
12 shall be given in the same manner as required under the rulemaking  
13 provisions in section 9, except that the commission may hold a special  
14 meeting as provided in subsection (f)(1)(B).

15 (B) The commission may hold a special meeting when it must meet to  
16 conduct emergency business by giving 48 hours' notice to all  
17 commissioners, on the commission's website, and other means as provided  
18 in the commission's rules. The commission's legal counsel shall certify that  
19 the commission's need to meet qualifies as an emergency.

20 (2) The commission or the executive committee or other committees  
21 of the commission may convene in a closed, nonpublic meeting for the  
22 commission or executive committee or other committees of the  
23 commission to receive legal advice or to discuss:

24 (A) Noncompliance of a member state with its obligations under the  
25 compact;

26 (B) the employment, compensation, discipline or other matters,  
27 practices or procedures related to specific employees;

28 (C) current or threatened discipline of a licensee by the commission  
29 or by a member state's licensing authority;

30 (D) current, threatened or reasonably anticipated litigation;

31 (E) negotiation of contracts for the purchase, lease or sale of goods,  
32 services or real estate;

33 (F) accusing any person of a crime or formally censuring any person;

34 (G) trade secrets or commercial or financial information that is  
35 privileged or confidential;

36 (H) information of a personal nature when disclosure would  
37 constitute a clearly unwarranted invasion of personal privacy;

38 (I) investigative records compiled for law enforcement purposes;

39 (J) information related to any investigative reports prepared by or on  
40 behalf of or for use of the commission or other committee charged with  
41 responsibility of investigation or determination of compliance issues  
42 pursuant to the compact;

43 (K) matters specifically exempted from disclosure by federal or

1 member state law; or

2 (L) other matters as promulgated by the commission by rule.

3 (3) If a meeting, or portion of a meeting, is closed, the presiding  
4 officer shall state that the meeting will be closed and reference each  
5 relevant exempting provision, and such reference shall be recorded in the  
6 minutes.

7 (4) The commission shall keep minutes that fully and clearly describe  
8 all matters discussed in a meeting and shall provide a full and accurate  
9 summary of actions taken and the reasons for such actions, including a  
10 description of the views expressed. All documents considered in  
11 connection with an action shall be identified in such minutes. All minutes  
12 and documents of a closed meeting shall remain under seal, subject to  
13 release only by a majority vote of the commission or order of a court of  
14 competent jurisdiction.

15 (g) Financing of the commission.

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

19 (2) The commission may accept any and all appropriate revenue  
20 sources as provided in subsection (c)(12).

21 (3) The commission may levy on and collect an annual assessment  
22 from each member state and impose fees on licensees practicing in the  
23 member states under an equivalent license to cover the cost of the  
24 operations and activities of the commission and its staff, that must be in a  
25 total amount sufficient to cover its annual budget as approved each year  
26 when revenue is not provided by other sources. The aggregate annual  
27 assessment amount for member states shall be allocated based upon a  
28 formula that the commission shall promulgate by rule.

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

33 (5) The commission shall keep accurate accounts of all receipts and  
34 disbursements. The receipts and disbursements of the commission shall be  
35 subject to the financial review and accounting procedures established  
36 under its bylaws. However, all receipts and disbursements of funds  
37 handled by the commission shall be subject to an annual financial review  
38 by a certified or licensed public accountant, and the report of the financial  
39 review shall be included in and become part of the annual report of the  
40 commission.

41 (h) Qualified immunity, defense and indemnification.

42 (1) The members, officers, executive director, employees and  
43 representatives of the commission shall be immune from suit and liability,

1 both personally and in their official capacity, for any claim for damage to  
2 or loss of property or personal injury or other civil liability caused by or  
3 arising out of any actual or alleged act, error or omission that occurred, or  
4 that the person against whom the claim is made had a reasonable basis for  
5 believing occurred within the scope of commission employment, duties or  
6 responsibilities. Nothing in this paragraph shall be construed to protect any  
7 such person from suit or liability for any damage, loss, injury or liability  
8 caused by the intentional or willful or wanton misconduct of that person.  
9 The procurement of insurance of any type by the commission shall not in  
10 any way compromise or limit the immunity granted in this paragraph.

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

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

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

34 (5) Nothing in this compact shall be interpreted to waive or otherwise  
35 abrogate a member state's state action immunity or state action affirmative  
36 defense with respect to antitrust claims under the Sherman antitrust act of  
37 1890, Clayton act 15 U.S.C. §§ 12-27 or any other state or federal antitrust  
38 or anticompetitive law or regulation.

39 (6) Nothing in this compact shall be construed to be a waiver of  
40 sovereign immunity by the member states or by the commission.

#### 41 SECTION 8—FACILITATING INFORMATION EXCHANGE

42 (a) The commission shall provide for facilitating the exchange of  
43 information to administer and implement the provisions of this compact in

1 accordance with the rules of the commission, consistent with generally  
2 accepted data protection principles.

3 (b) Notwithstanding any other provision of state law to the contrary, a  
4 member state shall agree to provide for the facilitation of the following  
5 licensee information as required by the rules of the commission, including:

6 (1) Identifying information;

7 (2) licensure data;

8 (3) adverse actions against a license and information related thereto;

9 (4) nonconfidential information related to alternative program  
10 participation, the beginning and ending dates of such participation, and  
11 other information related to such participation not made confidential under  
12 member state law;

13 (5) any denial of application for licensure, and the reasons for such  
14 denial;

15 (6) the presence of investigative information; and

16 (7) other information that may facilitate the administration of this  
17 compact or the protection of the public, as determined by the rules of the  
18 commission.

19 (c) Nothing in this compact shall be deemed or construed to alter,  
20 limit or inhibit the power of a member state to control and maintain  
21 ownership of its licensee information or alter, limit or inhibit the laws or  
22 regulations governing licensee information in the member state.

#### 23 SECTION 9—RULEMAKING

24 (a) The commission shall exercise its rulemaking powers pursuant to  
25 the criteria set forth in this interstate compact and the rules adopted  
26 thereunder. Rules and amendments shall become binding as of the date  
27 specified in each rule or amendment.

28 (b) The commission shall promulgate reasonable rules to achieve the  
29 intent and purpose of this interstate compact. In the event the commission  
30 exercises its rulemaking authority in a manner that is beyond purpose and  
31 intent of this interstate compact, or the powers granted hereunder, then  
32 such an action by the commission shall be invalid and have no force and  
33 effect of law in the member states.

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

38 (d) Rules or amendments to the rules shall be adopted or ratified at a  
39 regular or special meeting of the commission in accordance with  
40 commission rules and bylaws.

41 (e) Prior to promulgation and adoption of a final rule or rules by the  
42 commission, and at least 30 days in advance of the meeting when the rule  
43 will be considered and voted upon, the commission shall file a notice of

1 proposed rulemaking:

2 (1) On the website of the commission or other publicly accessible  
3 platform; and

4 (2) on the website of each member state licensing authority or other  
5 publicly accessible platform or the publication where each state would  
6 otherwise publish proposed rules.

7 (f) Upon determination that an emergency exists, the commission  
8 may consider and adopt an emergency rule with 48 hours' notice, with  
9 opportunity to comment, provided that the usual rulemaking procedures  
10 shall be retroactively applied to the rule as soon as reasonably possible, in  
11 no event later than 90 days after the effective date of the rule. For the  
12 purposes of this provision, an emergency rule is one that must be adopted  
13 immediately in order to:

14 (1) Meet an imminent threat to public health, safety or welfare.

15 (A) Prevent a loss of commission or member state funds;

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

18 (C) protect public health and safety.

19 SECTION 10—OVERSIGHT, DISPUTE RESOLUTION AND  
20 ENFORCEMENT

21 (a) Oversight.

22 (1) The executive and judicial branches of the state government in  
23 each member state shall enforce this compact and take all actions  
24 necessary and appropriate to implement the compact.

25 (2) Venue is proper and judicial proceedings by or against the  
26 commission shall be brought solely and exclusively in a court of  
27 competent jurisdiction where the principal office of the commission is  
28 located. The commission may waive venue and jurisdictional defenses to  
29 the extent it adopts or consents to participate in alternative dispute  
30 resolution proceedings. Nothing herein shall affect or limit the selection or  
31 propriety of venue in any action against a licensee for professional  
32 malpractice, misconduct or any such similar matter.

33 (3) The commission shall be entitled to receive service of process in  
34 any proceeding regarding the enforcement or interpretation of the compact  
35 and shall have standing to intervene in such a proceeding for all purposes.  
36 Failure to provide the commission service of process shall render a  
37 judgment or order void as to the commission, this compact or promulgated  
38 rules.

39 (b) Default, technical assistance and termination.

40 (1) If the commission determines that a member state has defaulted in  
41 the performance of its obligations or responsibilities under this compact or  
42 the promulgated rules, the commission shall provide written notice to the  
43 defaulting state. The notice of default shall describe the default, the

1 proposed means of curing the default, and any other action that the  
2 commission may take, and shall offer training and specific technical  
3 assistance regarding the default.

4 (2) The commission shall provide a copy of the notice of default to  
5 the other member states.

6 (c) If a state in default fails to cure the default, the defaulting state  
7 may be terminated from the compact upon an affirmative vote of a  
8 supermajority of the delegates of the member states, and all rights,  
9 privileges and benefits conferred on that state by this compact may be  
10 terminated on the effective date of termination. A cure of the default does  
11 not relieve the offending state of obligations or liabilities incurred during  
12 the period of default.

13 (d) Termination of membership in the compact shall be imposed only  
14 after all other means of securing compliance have been exhausted. Notice  
15 of intent to suspend or terminate shall be given by the commission to the  
16 governor, the majority and minority leaders of the defaulting state's  
17 legislature, the defaulting state's licensing authority and each of the  
18 member states' licensing authorities.

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

23 (f) Upon the termination of a state's membership from this compact,  
24 that state shall immediately provide notice to all licensees within that state  
25 of such termination. The terminated state shall continue to recognize all  
26 licenses granted pursuant to this compact for a minimum of six months  
27 after the date of said notice of termination.

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

31 (h) The defaulting state may appeal the action of the commission by  
32 petitioning the United States district court for the District of Columbia or  
33 the federal district where the commission has its principal offices. The  
34 prevailing party shall be awarded all costs of such litigation, including  
35 reasonable attorney fees.

36 (i) Dispute resolution.

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

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

42 (j) Enforcement.

43 (1) By majority vote as provided by rule, the commission may initiate

1 legal action against a member state in default in the United States district  
2 court for the District of Columbia or the federal district where the  
3 commission has its principal offices to enforce compliance with the  
4 provisions of the compact and its promulgated rules. The relief sought may  
5 include both injunctive relief and damages. In the event judicial  
6 enforcement is necessary, the prevailing party shall be awarded all costs of  
7 such litigation, including reasonable attorney fees. The remedies herein  
8 shall not be the exclusive remedies of the commission. The commission  
9 may pursue any other remedies available under federal or the defaulting  
10 member state's law.

11 (2) A member state may initiate legal action against the commission  
12 in the United States district court for the District of Columbia or the  
13 federal district where the commission has its principal offices to enforce  
14 compliance with the provisions of the compact and its promulgated rules.  
15 The relief sought may include both injunctive relief and damages. In the  
16 event judicial enforcement is necessary, the prevailing party shall be  
17 awarded all costs of such litigation, including reasonable attorney fees.

18 (3) No person other than a member state shall enforce this compact  
19 against the commission.

20 SECTION 11—EFFECTIVE DATE, WITHDRAWAL AND  
21 AMENDMENT

22 (a) The compact shall come into effect on the date that the compact  
23 statute is enacted into law in the seventh member state.

24 (1) On or after the effective date of the compact indicated above, the  
25 commission shall convene and review the enactment of each of the charter  
26 member states to determine if the statute enacted by each such charter  
27 member state is materially different than the model compact statute.

28 (A) A charter member state whose enactment is found to be  
29 materially different from the model compact statute shall be entitled to the  
30 default process set forth in section 10.

31 (B) If any member state is later found to be in default, or is  
32 terminated or withdraws from the compact, the commission shall remain in  
33 existence and the compact shall remain in effect even if the number of  
34 member states should be less than seven.

35 (2) Member states enacting the compact subsequent to the charter  
36 member states shall be subject to the process set forth in section 7(c)(21)  
37 to determine if their enactments are materially different from the model  
38 compact statute and whether they qualify for participation in the compact.

39 (3) All actions taken for the benefit of the commission or in  
40 furtherance of the purposes of the administration of the compact prior to  
41 the effective date of the compact or the commission coming into existence  
42 shall be considered to be actions of the commission unless specifically  
43 repudiated by the commission.

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

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

9 (b) A member state's withdrawal shall not take effect until 180 days  
10 after enactment of the repealing statute.

11 (c) Withdrawal shall not affect the continuing requirement of the  
12 withdrawing state's licensing authority to comply with the investigative  
13 and adverse action reporting requirements of this compact prior to the  
14 effective date of withdrawal.

15 (d) Upon the enactment of a statute withdrawing from this compact, a  
16 state shall immediately provide notice of such withdrawal to all licensees  
17 within that state. Notwithstanding any subsequent statutory enactment to  
18 the contrary, such withdrawing state shall continue to recognize all  
19 licenses granted pursuant to this compact for a minimum of six months  
20 after the date of such notice of withdrawal.

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

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

#### 28 SECTION 12—CONSTRUCTION AND SEVERABILITY

29 (a) This compact and the commission's rulemaking authority shall be  
30 liberally construed so as to effectuate the purposes, implementation and  
31 administration of the compact. Provisions of the compact expressly  
32 authorizing or requiring the promulgation of rules shall not be construed to  
33 limit the commission's rulemaking authority solely for those purposes.

34 (b) The provisions of this compact shall be severable and if any  
35 phrase, clause, sentence or provision of this compact is held by a court of  
36 competent jurisdiction to be contrary to the constitution of any member  
37 state, a state seeking participation in the compact, or of the United States,  
38 or the applicability thereof to any government, agency, person or  
39 circumstance is held to be unconstitutional by a court of competent  
40 jurisdiction, the validity of the remainder of this compact and the  
41 applicability thereof to any other government, agency, person or  
42 circumstance shall not be affected thereby.

43 (c) Notwithstanding subsection (b), the commission may deny a

1 state's participation in the compact or, in accordance with the requirements  
2 of section 10(b), terminate a member state's participation in the compact, if  
3 it determines that a constitutional requirement of a member state is a  
4 material departure from the compact. Otherwise, if this compact shall be  
5 held to be contrary to the constitution of any member state, the compact  
6 shall remain in full force and effect as to the remaining member states and  
7 in full force and effect as to the member state affected as to all severable  
8 matters.

9 SECTION 13—CONSISTENT EFFECT AND CONFLICT WITH  
10 OTHER STATE LAWS

11 (a) Nothing herein shall prevent or inhibit the enforcement of any  
12 other law of a member state that is not inconsistent with the compact.

13 (b) Any laws, statutes, regulations, or other legal requirements in a  
14 member state in conflict with the compact are superseded to the extent of  
15 the conflict.

16 (c) All permissible agreements between the commission and the  
17 member states are binding in accordance with their terms.

18 Sec. 2. This act shall take effect and be in force from and after its  
19 publication in the statute book.