

HOUSE BILL No. 2763

By Committee on Health and Human Services

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

2-6

1 AN ACT concerning health professions and practices; relating to athletic
2 trainers; enacting the athletic trainer licensure 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
7 athletic trainer licensure compact.

8 ARTICLE 1—PURPOSE

9 (a) The purpose of this compact is to expand mobility of athletic
10 training practice and improve public access to services by providing
11 athletic trainers licensed in a member state the ability to practice in other
12 member states. This compact preserves the regulatory authority of states to
13 protect public health and safety through the current system of state
14 licensure, while also providing for expanded interstate mobility through a
15 compact privilege granted to qualifying professionals.

16 (b) This compact is designed to achieve the following objectives:

17 (1) Increase public access to athletic training by providing for the
18 mutual recognition of other member state licenses;

19 (2) provide opportunities for interstate practice by licensed athletic
20 trainers who meet uniform licensure requirements;

21 (3) promote mobility and workforce development by eliminating the
22 necessity for licenses in multiple states by providing for the mutual
23 recognition of other member state licenses;

24 (4) reduce administrative burden on applicants and member states;

25 (5) enhance the states' ability to protect the public's health and safety;

26 (6) encourage the cooperation of member states in regulating
27 multistate practice of licensed athletic trainers;

28 (7) support relocating active military and their spouses;

29 (8) enhance the exchange of licensure, investigative and disciplinary
30 information among member states;

31 (9) support the uniformity of licensed athletic trainer licensure
32 requirements throughout the states;

33 (10) affirm the authority of all member states to hold a licensed
34 athletic trainer accountable for meeting all state practice laws in the state
35 where the patient is located at the time care is rendered to allow for

1 continuity of competent care through the mutual recognition of member
2 state licenses; and

3 (11) adhere to the substantive language in the model compact
4 language in order to promote uniformity and ensure that all member states
5 have accepted and are mutually obligated to the same terms.

6 ARTICLE 2—DEFINITIONS

7 As used in this compact:

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

11 (b) "Adverse action" means any administrative, civil, equitable or
12 criminal action permitted by a state's laws that is imposed by a licensing
13 authority or other authority against a licensee, including actions against an
14 individual's license or compact privilege such as revocation, suspension,
15 probation, monitoring of the licensee, limitation on the licensee's practice
16 or any other encumbrance on licensure affecting a licensee's authorization
17 to practice, including issuance of a cease and desist action.

18 (c) "Alternative program" means a non-disciplinary monitoring or
19 practice remediation process applicable to an athletic trainer approved by a
20 state licensing authority of a member state in which the athletic trainer is
21 licensed. This includes, but is not limited to, programs to which licensees
22 with substance use, addiction or mental health conditions are referred in
23 lieu of adverse action.

24 (d) "Athletic training" means the prevention, examination,
25 assessment, treatment and rehabilitation of emergent, acute or chronic
26 injuries and medical conditions as defined by applicable member state
27 laws and regulations.

28 (e) "Athletic training compact commission" or "commission" means
29 the government agency whose membership consists of all states that have
30 enacted this compact, which is known as the athletic trainer licensure
31 compact commission, as described in section 8, and which shall operate as
32 an instrumentality of the member states.

33 (f) "BOC" means the board of certification, inc. or any successor
34 organization thereto.

35 (g) "CAATE" means the commission on accreditation of athletic
36 training education or any successor organization thereto.

37 (h) "Charter member state" means any member state which enacted
38 this compact by law before the effective date specified in section 12.

39 (i) "Clinical assessment" means examination or process required for
40 licensure as a athletic trainer, as applicable, that provides evidence of
41 clinical competence in athletic training.

42 (j) "Commissioner" means the individual appointed by a member
43 state to serve as the member of the commission for that member state.

1 (k) "Compact" means this athletic trainer compact.

2 (l) "Compact privilege" means the authorization granted by a remote
3 state, equivalent to a license, allowing a licensee from another member
4 state to provide athletic training services in a remote state.

5 (m) "Compact qualifying license" means a license that is not an
6 encumbered license issued by a member state to practice athletic training
7 that qualifies the licensee to exercise a compact privilege pursuant to
8 section 4 of this compact.

9 (n) "Continuing competence" means a requirement, as a condition of
10 license renewal, to provide evidence of successful participation, and
11 completion of, educational and professional activities relevant to practice
12 or area of work. for purposes of this compact, evidence of active BOC
13 certification may satisfy the meaning of continuing competence as set
14 forth in this compact.

15 (o) "Current significant investigative information" means:

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

21 (2) investigative information that indicates that the subject licensee
22 represents an immediate threat to public health and safety, regardless of
23 whether the subject licensee has been notified and had an opportunity to
24 respond.

25 (p) "Criminal background check" means the submission of
26 fingerprints or other biometric-based information for a license applicant
27 for the purpose of obtaining that applicant's criminal history record
28 information, as defined in 28 C.F.R. § 20.3(d) from the federal bureau of
29 investigation and the state's criminal history record repository as defined in
30 28 C.F.R. § 20.3(f).

31 (q) "Data system" means the commission's repository of information
32 about licensees, including, but not limited to, examination, licensure,
33 investigative, compact privilege, adverse action and alternative program.

34 (r) "Encumbered license" means a license in which an adverse action
35 restricts a licensee's ability to practice as an athletic trainer.

36 (s) "Encumbrance" means a revocation or suspension of, or any
37 limitation on, the full and unrestricted practice of athletic training licensed
38 and regulated by a licensing authority.

39 (t) "Investigative information" means information, records and
40 documents received or generated by a licensing authority pursuant to an
41 investigation.

42 (u) "Jurisprudence requirement" means the assessment of an
43 individual's knowledge of the laws and rules governing the practice of

1 athletic training, as applicable, in a state.

2 (v) "License" means current authorization by a member state to
3 engage in the practice of athletic training.

4 (w) "Licensee" or "licensed athletic trainer" means an individual who
5 currently holds an unrestricted license and who meets all of the
6 requirements outlined in article 4 of this compact.

7 (x) "Licensing authority" means the board or agency of a state, or
8 equivalent, that is responsible for the licensing and regulation of athletic
9 trainers.

10 (y) "Model compact language" means the model language for the
11 athletic trainer compact on file with the council of state governments or
12 other entity as designated by the commission to which all member states
13 shall substantively adhere and adopt.

14 (z) "Member state" means a state that has enacted the compact.

15 (aa) "Remote state" means a member state where a licensee who is
16 not licensed as an athletic trainer is exercising or seeking to exercise the
17 compact privilege.

18 (bb) "Rule" means a regulation adopted by an entity that has the force
19 of law.

20 (cc) "Scope of practice" means the procedures, actions and processes
21 an athletic trainer licensed in a state is permitted to undertake in that state
22 and the circumstances under which the licensee is permitted to undertake
23 those procedures, actions and processes. Such procedures, actions and
24 processes and the circumstances under which they may be undertaken may
25 be established through means, including, but not limited to, statute,
26 regulations, case law and other processes available to the state licensing
27 authority or other government agency. "Scope of practice" includes any
28 state requirements regarding supervision or direction, if required by such
29 state and as further defined by such state's statutes and regulations.

30 (dd) "Significant investigative information" means information,
31 records and documents received or generated by a state licensing authority
32 pursuant to an investigation of a licensee who has violated a statute or
33 regulation that is considered more than a minor infraction for which the
34 state licensing authority could pursue adverse action against the licensee.

35 (ee) "State" means any state, commonwealth, district or territory of
36 the United States of America.

37 (ff) "State of qualifying licensure" means the member state that has
38 issued a compact qualifying license to a licensee.

39 (gg) "Unencumbered license" means a license that authorizes a
40 licensee to engage in the full and unrestricted practice of athletic training.

41 ARTICLE 3—STATE PARTICIPATION IN THE COMPACT

42 (a) To participate in this compact, a state shall:

43 (1) License and regulate the practice of athletic training;

1 (2) require that licensees in that state maintain continuing competence
2 standards as part of their state practice act or rules; and

3 (3) have a mechanism in place for receiving and investigating
4 complaints about licensees.

5 (b) To maintain membership in the compact, a member state shall:

6 (1) Participate fully in the compact commission's data system,
7 including using the unique identifier as defined in rules;

8 (2) notify the compact commission, in compliance with the terms of
9 the compact and rules, of any adverse action or the availability of current
10 significant investigative information regarding a licensee;

11 (3) implement or utilize procedures for considering the criminal
12 history records of applicants for a compact qualifying license, which
13 includes receiving the results of the federal bureau of investigation record
14 search and shall use those results in making licensure decisions. These
15 procedures shall include the submission of fingerprints or other biometric-
16 based information by applicants for the purpose of obtaining an applicant's
17 criminal history record information from the federal bureau of
18 investigation and the agency responsible for retaining that state's criminal
19 records:

20 (A) Fully implement a criminal background check requirement,
21 within a time frame established by rule, in order to participate in the
22 issuance and acceptance of compact privileges; and

23 (B) communication between a member state and the compact
24 commission or among member states regarding the verification of
25 eligibility for licensure through the compact shall not include any
26 information received from the federal bureau of investigation relating to a
27 federal criminal records check performed by a member state;

28 (4) comply with and enforce the rules of the compact commission;
29 and

30 (5) grant the compact privilege to a licensee who meets all of the
31 requirements outlined in article 4 in accordance with the terms of the
32 compact and any rules adopted by the compact.

33 (c) Member states may set and collect a fee for granting the compact
34 privilege.

35 (d) Individuals not residing in a member state shall continue to be
36 able to apply for a member state's single state license as provided under the
37 laws of each member state. However, the single state license granted to
38 these individuals shall not be recognized as granting a compact privilege to
39 engage in the practice of athletic training in any other member state.

40 (e) Nothing in this compact shall affect the requirements established
41 by a member state for the issuance of a single state license.

42 (f) A compact qualifying license issued to a licensee by a member
43 state shall be recognized by each remote state as authorizing that licensee

1 to engage in the practice of athletic training, under a compact privilege, in
2 another member state in accordance with the requirements in article 4.

3 ARTICLE 4—COMPACT PRIVILEGE

4 (a) To exercise the compact privilege under the terms and provisions
5 of the compact, the licensee shall:

6 (1) Satisfy one of the following:

7 (A) Hold a valid, current and active certification through the BOC or
8 its successor organization; or

9 (B) complete all of the following:

10 (i) An education program that is:

11 (a) A bachelor's degree with a major course of study in athletic
12 training or an equivalent course of study from a college or CAATE or its
13 successor organization;

14 (b) an academic degree from a college or university in a foreign
15 country equivalent to the degree described in paragraph (1) with a major
16 course of study as described in paragraph (1) that is accredited by CAATE
17 or its successor organization; or

18 (c) the substantial equivalent of the foregoing that the commission
19 may determine by rule; and

20 (ii) successful completion of the comprehensive exam administered
21 by the BOC or its successor organization not more than three years before
22 the date of the licensee's application for licensure in the licensee's state of
23 qualifying licensure, or the substantial equivalent of the foregoing
24 requirement, which the commission may determine by rule;

25 (2) hold a compact qualifying license;

26 (3) have not had any encumbrance or restriction against any license
27 or compact privilege to practice athletic training within the previous two
28 years;

29 (4) be eligible for a compact privilege in any member state in
30 accordance with article 4(d), (f), (g) and (h);

31 (5) notify the compact commission that the licensee is seeking the
32 compact privilege within a remote state;

33 (6) pay any applicable fees, including any state fee, for the compact
34 privilege;

35 (7) meet any continuing education requirements established by the
36 state of qualifying licensure;

37 (8) comply with any requirements of the state of qualifying licensure
38 as set forth in article 3;

39 (9) meet any jurisprudence requirements established by the remote
40 state where the licensee is seeking a compact privilege; and

41 (10) report to the compact commission any adverse action,
42 encumbrance or restriction on a license taken by any non-member state
43 within 30 days from the date that the action is taken.

1 (b) The compact privilege is valid until the expiration date of the
2 compact qualifying license. To maintain a compact privilege, renewal of
3 the compact privilege shall be congruent with the renewal of the compact
4 qualifying licensure as the compact commission may define by rule. The
5 licensee shall comply with the requirements of article 4(a) to maintain the
6 compact privilege in the remote state.

7 (c) A licensee engaging in the practice of athletic training in a remote
8 state under the compact privilege shall adhere to the scope of practice laws
9 and regulations of the remote state. Practice in a remote state may occur,
10 depending upon applicable provisions of state law, when either the patient
11 or the licensee is located in the remote state. Licensees shall be responsible
12 for educating themselves on and complying with any and all state laws
13 relating to the remote practice of athletic training, as applicable.

14 (d) A licensee engaging in the practice of athletic training in a remote
15 state is subject to that state's regulatory authority. A remote state may, in
16 accordance with due process and that state's laws, remove a licensee's
17 compact privilege in the remote state for a specific period of time, impose
18 fines, and/or take any other necessary actions to protect the health and
19 safety of its citizens. Any member state which undertakes such an action
20 shall promptly notify the member state and the commission as specified in
21 the rules. The licensee may be deemed to be ineligible to exercise the
22 compact privilege by any member state until the specific time for removal
23 has passed and all fines are paid.

24 (e) All member state disciplinary orders that impose adverse action
25 against a compact qualifying licensee shall include a statement that the
26 licensee's compact privileges are deactivated in all member states during
27 the pendency of the order. If a compact qualifying license is encumbered,
28 the licensee shall lose the compact privilege in any remote state until the
29 following occur:

30 (1) The compact qualifying license is no longer encumbered; and

31 (2) the licensee has not had any encumbrance or restriction against
32 any license, compact qualifying license or compact privilege within the
33 previous two years.

34 (f) Once an encumbered license in the home state is restored to an
35 unencumbered license as certified by the home state's licensing authority,
36 the licensee shall meet the requirements of article 4(a) to obtain a compact
37 privilege in any remote state.

38 (g) If a licensee's compact privilege in any remote state is removed,
39 that licensee may also lose the compact privilege in other remote states, as
40 each member state shall determine in its sole authority, until the following
41 occur:

42 (1) The specific period of time for which the compact privilege was
43 removed has ended;

- 1 (2) all fines have been paid; and
- 2 (3) have not had any encumbrance or restriction against any license
- 3 or compact privilege within the previous two years.
- 4 (h) Once the requirements of article 4(g) have been met, the licensee
- 5 shall meet the requirements in article 4(a) to obtain a compact privilege in
- 6 a remote state.

7 ARTICLE 5—COMPACT QUALIFYING LICENSE

- 8 (a) A licensee may hold only one compact qualifying license at a
- 9 time. The procedures for such designation may be further defined by the
- 10 compact commission by rule.
- 11 (b) Nothing in this compact shall interfere with a licensee's ability to
- 12 hold a single state license in multiple states, however, for the purposes of
- 13 this compact, a licensee shall have only one qualifying license.
- 14 (c) Nothing in this compact shall affect the requirements established
- 15 by a member state for the issuance of a license other than a compact
- 16 qualifying license.

17 ARTICLE 6—ACTIVE MILITARY MEMBER OR THEIR SPOUSES

18 An active military member and their spouse shall not be required to pay

19 to the commission for a compact privilege any fee that may otherwise be

20 charged by the commission. If a remote state chooses to charge a fee for a

21 compact privilege, it may choose to charge a reduced fee or no fee to an

22 active military member and such military member's spouse for a compact

23 privilege.

24 ARTICLE 7—ADVERSE ACTIONS

- 25 (a) A member state in which a licensee is issued a compact qualifying
- 26 license shall have the exclusive authority to impose adverse action against
- 27 the compact qualifying license issued by that member state.
- 28 (b) A member state may take adverse action based on significant
- 29 investigative information of a remote state, so long as the member state
- 30 follows its own procedures for imposing adverse action.
- 31 (c) Nothing in this compact shall override a member state's decision
- 32 that participation in an alternative program may be used in lieu of adverse
- 33 action and that such participation shall remain non-public if required by
- 34 the member state's laws.
- 35 (d) A remote state shall have the authority to:
- 36 (1) Take adverse action against a licensee's compact privilege in that
- 37 state; and
- 38 (2) issue subpoenas for both hearings and investigations that require
- 39 the attendance and testimony of witnesses as well as the production of
- 40 evidence.
- 41 (A) Subpoenas may be issued by an athletic training licensing
- 42 authority in a member state for the attendance and testimony of witnesses
- 43 and the production of evidence.

1 (B) Subpoenas issued by an athletic training licensing authority in a
2 member state for the attendance and testimony of witnesses shall be
3 enforced in the latter state by any court of competent jurisdiction in the
4 latter state, according to the practice and procedure of that court applicable
5 to subpoenas issued in proceedings pending before it.

6 (C) Subpoenas issued by an athletic training licensing authority in a
7 member state for production of evidence from another member state shall
8 be enforced in the latter state, according to the practice and procedure of
9 that court applicable to subpoenas issued in the proceedings pending
10 before it.

11 (D) The issuing authority shall pay any witness fees, travel expenses,
12 mileage and other fees required by the service statutes of the state in which
13 the witnesses or evidence are located.

14 (e) For the purposes of taking adverse action, a member state shall
15 give the same priority and effect to reported conduct received from another
16 member state as it would if the conduct had occurred within that state. In
17 so doing, the investigating member state shall apply its own state laws to
18 determine appropriate action.

19 (f) A member state, if otherwise permitted by state law, may recover
20 from the affected licensee the costs of investigations and dispositions of
21 cases resulting from any adverse action taken against that licensee.

22 (g) A member state may take adverse action based on the factual
23 findings of another remote state, provided that the member state follows its
24 own procedures for taking the adverse action.

25 (h) Joint investigations.

26 (1) In addition to the authority granted to a member state by its
27 respective state law, any member state may participate with other member
28 states in joint investigations of licensees.

29 (2) Member states shall share any investigative, litigation or
30 compliance materials in furtherance of any joint or individual investigation
31 initiated under the compact.

32 (i) If a member state takes adverse action, it shall promptly notify the
33 administrator of the data system. The administrator of the data system shall
34 promptly notify the state of qualifying licensure of any adverse actions by
35 remote states.

36 (j) Nothing in this compact shall override a member state's decision
37 that participation in an alternative program may be used in lieu of adverse
38 action.

39 (k) Nothing in this compact shall permit a member state to take any
40 adverse action against a licensee or holder of a compact privilege for
41 conduct or practice occurring in another member state that was legal in the
42 member state at the time it was undertaken.

43 ARTICLE 8—ESTABLISHMENT AND OPERATION OF THE

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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 athletic trainer licensure compact commission. The compact commission is an instrumentality of the compact states acting jointly and not an instrumentality of any one state. The compact commission shall come into existence on or after the effective date of the compact as set forth in article 12.

(b) Membership, voting and meetings.

(1) Each member state shall have and be limited to one delegate, referred to as a commissioner, selected by that member state's licensing authority.

(2) The commissioner shall be an administrator or their designated staff member of the licensing authority.

(3) The compact commission may recommend removal or suspension of any commissioner from office.

(4) A member state's licensing authority shall fill any vacancy of its commissioner occurring on the compact commission within 60 days of the vacancy.

(5) Each commissioner shall be entitled to one vote on all matters before the compact commission requiring a vote by the commissioners.

(6) A commissioner shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for commissioners to meet by telecommunication, videoconference or other means of communication.

(7) The compact commission shall meet at least once during each calendar year. Additional meetings may be held as set forth in the bylaws. The compact commission may meet by telecommunication, video conference or other similar electronic means.

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

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

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

(3) establish and amend rules and bylaws;

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

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

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

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

- 1 (8) purchase and maintain insurance and bonds;
- 2 (9) borrow, accept or contract for services of personnel, including, but
3 not limited to, employees of a member state;
- 4 (10) conduct an annual financial review;
- 5 (11) hire employees, elect or appoint officers, fix compensation,
6 define duties, grant such individuals appropriate authority to carry out the
7 purposes of the compact and establish the compact commission's personnel
8 policies and programs relating to conflicts of interest, qualifications of
9 personnel and other related personnel matters;
- 10 (12) assess and collect fees;
- 11 (13) accept any and all appropriate gifts, donations, grants of money,
12 other sources of revenue, equipment, supplies, materials and services, and
13 receive, utilize and dispose of the same, provided that at all times the
14 compact commission shall avoid any appearance of impropriety or conflict
15 of interest;
- 16 (14) lease, purchase, retain, own, hold, improve or use any property,
17 real, personal or mixed or any undivided interest therein;
- 18 (15) sell, convey, mortgage, pledge, lease, exchange, abandon or
19 otherwise dispose of any property, real, personal or mixed;
- 20 (16) establish a budget and make expenditures;
- 21 (17) borrow money;
- 22 (18) appoint committees, including standing committees, composed
23 of members, state regulators, state legislators or their representatives,
24 consumer representatives and such other interested persons as may be
25 designated in this compact and the bylaws;
- 26 (19) provide and receive information from and cooperate with law
27 enforcement agencies;
- 28 (20) establish and elect an executive committee, including a chair,
29 vice chair, secretary, treasurer and such other offices as the commission
30 shall establish by rule or bylaw;
- 31 (21) enter into contracts or arrangements for the management of the
32 affairs of the commission;
- 33 (22) determine whether a state's adopted language is materially
34 different from the model compact language such that the state would not
35 qualify for participation in the compact; and
- 36 (23) perform such other functions as may be necessary or appropriate
37 to achieve the purposes of this compact.
- 38 (d) The executive committee.
- 39 (1) The executive committee shall have the power to act on behalf of
40 the compact commission according to the terms of this compact. The
41 powers, duties and responsibilities of the executive committee shall
42 include:
- 43 (A) Oversee the day-to-day activities of the administration of the

- 1 compact, including enforcement and compliance with the provisions of the
2 compact, its rules and bylaws and other such duties as deemed necessary;
- 3 (B) recommend to the compact commission changes to the rules or
4 bylaws, changes to this compact legislation, fees charged to compact
5 member states, fees charged to licensees and other fees;
- 6 (C) ensure compact administration services are appropriately
7 provided, including by contract;
- 8 (D) prepare and recommend the budget;
- 9 (E) maintain financial records on behalf of the compact commission;
- 10 (F) monitor compact compliance of member states and provide
11 compliance reports to the compact commission;
- 12 (G) establish additional committees as necessary;
- 13 (H) exercise the powers and duties of the compact commission during
14 the interim between compact commission meetings, except for adopting or
15 amending rules, adopting or amending bylaws and exercising any other
16 powers and duties expressly reserved to the compact commission by rule
17 or bylaw; and
- 18 (I) other duties as provided in the rules or bylaws of the compact
19 commission.
- 20 (2) The executive committee shall be composed of five members:
- 21 (A) The chair and vice chair of the compact commission shall be
22 voting members of the executive committee;
- 23 (B) the compact commission shall elect up to three additional voting
24 members from the current membership of the compact commission to
25 include the offices of treasurer, secretary and one member-at-large; and
- 26 (C) up to four ex officio, nonvoting member from recognized national
27 athletic trainer organizations.
- 28 (e) The compact commission may remove any member of the
29 executive committee as provided in the compact commission's bylaws.
- 30 (1) The executive committee shall meet at least annually. Executive
31 committee meetings shall be open to the public, except that the executive
32 committee may meet in a closed, non-public meeting as provided in
33 subsection (g)(2).
- 34 (A) The executive committee shall give seven days notice of its
35 meetings, posted on its website and as determined to provide notice to
36 persons with an interest in the business of the compact commission.
- 37 (B) The executive committee may hold a special meeting in
38 accordance with subsection (g)(1)(B).
- 39 (C) The compact commission may remove any member of the
40 executive committee as provided in the compact commission's bylaws.
- 41 (f) The compact commission shall adopt and provide to the member
42 states an annual report.
- 43 (g) Meetings of the compact commission.

1 (1) All meetings shall be open to the public, except that the compact
 2 commission may meet in a closed, non-public meeting as provided in
 3 paragraph (2).

4 (A) Public notice for all meetings of the full compact commission of
 5 meetings shall be given in the same manner as required under the
 6 rulemaking provisions in article 10, except that the compact commission
 7 may hold a special meeting as provided in subparagraph (B).

8 (B) The compact commission may hold a special meeting when it
 9 shall meet to conduct emergency business by giving 24 hours' notice to all
 10 commissioners, on the compact commission's website and other means as
 11 provided in the compact commission's rules. The compact commission's
 12 legal counsel shall certify that the compact commission's need to meet
 13 qualifies as an emergency.

14 (2) The compact commission or the executive committee or other
 15 committees of the compact commission may convene in a closed, non-
 16 public meeting for the compact commission or executive committee or
 17 other committees of the compact commission to receive legal advice or to
 18 discuss:

19 (A) Non-compliance of a member state with its obligations under the
 20 compact;

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

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

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

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

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

29 (G) trade secrets or commercial or financial information that is
 30 privileged or confidential;

31 (H) information of a personal nature where disclosure would
 32 constitute a clearly unwarranted invasion of personal privacy;

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

34 (J) information related to any investigative reports prepared by or on
 35 behalf of or for use of the compact commission or other committee
 36 charged with responsibility of investigation or determination of
 37 compliance issues pursuant to the compact;

38 (K) matters specifically exempted from disclosure by federal or
 39 member state law; or

40 (L) other matters as specified in rules of the compact commission.

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

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

9 (h) Financing of the compact commission.

10 (1) The compact commission shall pay or provide for the payment of
11 the reasonable expenses of its establishment, organization and ongoing
12 activities.

13 (2) The compact commission may accept any and all appropriate
14 revenue sources as provided in subsection (c)(13).

15 (3) The compact commission may levy on and collect an annual
16 assessment from each member state and impose fees on licensees of
17 member states to whom it grants a compact privilege to cover the cost of
18 the operations and activities of the compact commission and its staff,
19 which shall be in a total amount sufficient to cover its annual budget as
20 approved each year for which revenue is not provided by other sources.
21 The aggregate annual assessment amount for member states shall be
22 allocated based upon a formula that the compact commission shall adopt
23 by rule.

24 (4) The compact commission shall not incur obligations of any kind
25 prior to securing the funds adequate to meet the same, nor shall the
26 compact commission pledge the credit of any of the member states, except
27 by and with the authority of the member state.

28 (5) The compact commission shall keep accurate accounts of all
29 receipts and disbursements. The receipts and disbursements of the compact
30 commission shall be subject to the financial review and accounting
31 procedures established under its bylaws. However, all receipts and
32 disbursements of funds handled by the compact public accountant, and the
33 report of the financial review shall be included in and become part of the
34 annual report of the compact commission.

35 (i) Qualified immunity, defense and indemnification.

36 (1) The members, officers, executive director, employees and
37 representatives of the compact commission shall be immune from suit and
38 liability, both personally and in their official capacity, for any claim for
39 damage to or loss of property or personal injury or other civil liability
40 caused by or arising out of any actual or alleged act, error or omission that
41 occurred or that the person against whom the claim is made had a
42 reasonable basis for believing occurred within the scope of compact
43 commission employment, duties or responsibilities, provided that nothing

1 in this paragraph shall be construed to protect any such person from suit or
2 liability for any damage, loss, injury or liability caused by the intentional
3 or willful or wanton misconduct of that person. The procurement of
4 insurance of any type by the compact commission shall not in any way
5 compromise or limit the immunity granted under this compact.

6 (2) The compact commission shall defend any member, officer,
7 executive director, employee and representative of the compact
8 commission in any civil action seeking to impose liability arising out of
9 any actual or alleged act, error or omission that occurred within the scope
10 of compact commission employment, duties or responsibilities or as
11 determined by the compact commission that the person against whom the
12 claim is made had a reasonable basis for believing occurred within the
13 scope of compact commission employment, duties or responsibilities;
14 provided that this compact shall not be construed to prohibit that person
15 from retaining their own counsel at their own expense; and provided
16 further, that the actual or alleged act, error or omission did not result from
17 that person's intentional or willful or wanton misconduct.

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

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

31 (5) Nothing in this compact shall be interpreted to waive or otherwise
32 abrogate a member state's state action immunity or state action affirmative
33 defense with respect to antitrust claims under the Sherman act, Clayton act
34 or any other state or federal antitrust or anticompetitive law or regulation.

35 (6) This compact shall not be construed to be a waiver of sovereign
36 immunity by the member states or by the compact commission.

37 ARTICLE 9—DATA SYSTEMS

38 (a) The commission shall provide for the development, maintenance,
39 operation and utilization of a coordinated database and reporting system
40 containing licensure, adverse action and the presence of significant
41 investigative information on all licensees and applicants for a license in
42 member states.

43 (b) Notwithstanding any other provision of state law to the contrary, a

1 member state shall submit a uniform data set to the data system on all
2 licensees, applicants and others to whom this compact is applicable as
3 required by the rules of the compact commission, including:

4 (1) Identifying information;

5 (2) licensure data;

6 (3) adverse actions against a licensee, license applicant or compact
7 privilege and information related thereto;

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

12 (5) any denial of an application for licensure and the reason for such
13 denial, excluding the reporting of any criminal history record information
14 where prohibited by law;

15 (6) the presence of significant 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) The records and information provided to a member state pursuant
20 to this compact or through the data system, when certified by the
21 commission or an agent thereof, shall constitute the authenticated business
22 records of the commission, and shall be entitled to any associated hearsay
23 exception in any relevant judicial, quasi-judicial or administrative
24 proceedings in a member state.

25 (d) Significant investigative information pertaining to a licensee in
26 any member state shall only be available to other member states.

27 (e) It is the responsibility of the member states to monitor the
28 database to determine whether adverse action has been taken against a
29 licensee or license applicant. Adverse action information pertaining to a
30 licensee or license applicant in any member state shall be available to any
31 other member state.

32 (f) Member states contributing information to the data system may
33 designate information that may not be shared with the public without the
34 express permission of the contributing state.

35 (g) Any information submitted to the data system that is subsequently
36 expunged pursuant to federal law or the laws of the member state
37 contributing the information shall be removed from the data system.

38 ARTICLE 10—RULEMAKING

39 (a) The compact commission shall adopt reasonable rules in order to
40 effectively and efficiently implement and administer the purposes and
41 provisions of the compact. A rule shall be invalid and have no force or
42 effect only if a court of competent jurisdiction holds that the rule is invalid
43 because the compact commission exercised its rulemaking authority in a

1 manner that is beyond the scope and purposes of the compact, or the
2 powers granted hereunder, or based upon another applicable standard of
3 review.

4 (b) The rules of the compact commission shall have the force of law
5 in each member state, provided, however, that where the rules conflict
6 with the laws or regulations of a member state that relate to the
7 procedures, actions and processes a licensed athletic trainer is permitted to
8 undertake in that state and the circumstances under which they may do so,
9 as held by a court of competent jurisdiction, the rules of the compact
10 commission shall be ineffective in that state to the extent of the conflict.

11 (c) The compact commission shall exercise its rulemaking powers
12 pursuant to the criteria set forth in this article and the rules adopted
13 thereunder. Rules shall become binding on the day following adoption or
14 as of the date specified in the rule or amendment, whichever is later.

15 (d) If a majority of the legislatures of the member states rejects a rule
16 or portion of a rule by enactment of a statute or resolution in the same
17 manner used to adopt the compact within four years of the date of adoption
18 of the rule, then such rule shall have no further force and effect in any
19 member state.

20 (e) Rules shall be adopted at a regular or special meeting of the
21 compact commission.

22 (f) Prior to adoption of a proposed rule, the compact commission
23 shall hold a public hearing and allow persons to provide oral and written
24 comments, data, facts, opinions and arguments.

25 (g) Prior to adoption of a proposed rule by the compact commission
26 and at least 30 days in advance of the meeting at which the compact
27 commission will hold a public hearing on the proposed rule, the compact
28 commission shall provide a notice of proposed rulemaking:

29 (1) On the website of the compact commission or other publicly
30 accessible platform;

31 (2) to persons who have requested notice of the compact
32 commission's notices of proposed rulemaking; and

33 (3) in such other way as the compact commission may by rule
34 specify.

35 (h) The notice of proposed rulemaking shall include:

36 (1) The time, date and location of the public hearing at which the
37 compact commission shall hear public comments on the proposed rule and,
38 if different, the time, date and location of the meeting where the compact
39 commission shall consider and vote on the proposed rule;

40 (2) if the hearing is held via telecommunication, video conference or
41 other electronic means, the compact commission shall include the
42 mechanism for access to the hearing in the notice of proposed rulemaking;

43 (3) the text of the proposed rule and the reason therefor;

1 (4) a request for comments on the proposed rule from any interested
2 person; and

3 (5) the manner where interested persons may submit written
4 comments.

5 (i) All hearings shall be recorded. A copy of the recording and all
6 written comments and documents received by the compact commission in
7 response to the proposed rule shall be available to the public.

8 (j) Nothing in this article shall be construed as requiring a separate
9 hearing on each rule. Rules may be grouped for the convenience of the
10 compact commission at hearings required by this article.

11 (k) The compact commission shall, by majority vote of all members,
12 take final action on the proposed rule based on the rulemaking record and
13 the full text of the rule.

14 (1) The compact commission may adopt changes to the proposed rule
15 provided the changes do not enlarge the original purpose of the proposed
16 rule.

17 (2) The compact commission shall provide an explanation of the
18 reasons for substantive changes made to the proposed rule as well as
19 reasons for substantive changes not made that were recommended by
20 commenters.

21 (3) The compact commission shall determine a reasonable effective
22 date for the rule. Except for an emergency as provided in article 10(l), the
23 effective date of the rule shall be no sooner than 30 days after issuing the
24 notice that it adopted or amended the rule.

25 (l) Upon determination that an emergency exists, the compact
26 commission may consider and adopt an emergency rule with 24 hours'
27 notice, with opportunity to comment, provided that the usual rulemaking
28 procedures provided in the compact and in this article shall be
29 retroactively applied to the rule as soon as reasonably possible, in no event
30 later than 90 days after the effective date of the rule. For the purposes of
31 this provision, an emergency rule is one that shall be adopted immediately
32 in order to:

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

34 (2) prevent a loss of compact commission or member state funds;

35 (3) meet a deadline for the promulgation of a rule that is established
36 by federal law or rule; or

37 (4) protect public health and safety.

38 (m) The compact commission or an authorized committee of the
39 compact commission shall direct revisions to a previously adopted rule for
40 purposes of correcting typographical errors, errors in format, errors in
41 consistency or grammatical errors. Public notice of any revisions shall be
42 posted on the website of the compact commission. The revision shall be
43 subject to challenge by any person for a period of 30 days after posting.

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

7 (n) No member state's rulemaking requirements shall apply under this
8 compact.

9 ARTICLE 11—OVERSIGHT, DISPUTE RESOLUTION AND
10 ENFORCEMENT

11 (a) Oversight.

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

15 (2) Except as otherwise provided in this compact, venue is proper and
16 judicial proceedings by or against the compact commission shall be
17 brought solely and exclusively in a court of competent jurisdiction where
18 the principal office of the compact commission is located. The compact
19 commission may waive venue and jurisdictional defenses to the extent it
20 adopts or consents to participate in alternative dispute resolution
21 proceedings. This compact shall not affect or limit the selection or
22 propriety of venue in any action against a licensee for professional
23 malpractice, misconduct or any such similar matter.

24 (3) The compact commission shall be entitled to receive service of
25 process in any proceeding regarding the enforcement or interpretation of
26 the compact and shall have standing to intervene in such a proceeding for
27 all purposes. Failure to provide the compact commission service of process
28 shall render a judgment or order void as to the compact commission, this
29 compact or adopted rules.

30 (b) Default, technical assistance and termination.

31 (1) If the compact commission determines that a member state has
32 defaulted in the performance of its obligations or responsibilities under
33 this compact or the adopted rules, the commission shall provide written
34 notice to the defaulting state. The notice of default shall describe the
35 default, the proposed means of curing the default and any other action that
36 the compact commission may take, and shall offer training and specific
37 technical assistance regarding the default.

38 (2) The compact commission shall provide a copy of the notice of
39 default to the other member states.

40 (c) If a state in default fails to cure the default, the defaulting state
41 may be terminated from the compact upon an affirmative vote of a
42 majority of the commissioners of the member states, and all rights,
43 privileges and benefits conferred on that state by this compact may be

1 terminated on the effective date of termination. A cure of the default does
2 not relieve the offending state of obligations or liabilities incurred during
3 the period of default.

4 (d) Termination of membership in the compact shall be imposed only
5 after all other means of securing compliance have been exhausted. Notice
6 of intent to suspend or terminate shall be given by the compact
7 commission to the governor, the majority and minority leaders of the
8 defaulting state's legislature, the defaulting state's licensing authority and
9 each of the member states' licensing authority.

10 (e) A state that has been terminated is responsible for all assessments,
11 obligations and liabilities incurred through the effective date of
12 termination, including obligations that extend beyond the effective date of
13 termination.

14 (f) Upon the termination of a state's membership from this compact,
15 that state shall immediately provide notice to all licensees within that state
16 of such termination. The terminated state shall continue to recognize all
17 licenses granted pursuant to this compact for a minimum of six months
18 after the date of such notice of termination.

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

23 (h) The defaulting state may appeal the action of the compact
24 commission by petitioning the United States District Court for the District
25 of Columbia or the federal district where the compact commission has its
26 principal offices. The prevailing party shall be awarded all costs of such
27 litigation, including reasonable attorney fees.

28 (i) Dispute resolution.

29 (1) Upon request by a member state, the compact commission shall
30 attempt to resolve disputes related to the compact that arise among
31 member states and between member and non-member states.

32 (2) The compact commission shall adopt a rule providing for both
33 mediation and binding dispute resolution for disputes as appropriate.

34 (j) Enforcement.

35 (1) By supermajority vote, the compact commission may initiate legal
36 action against a member state in default in the United States District Court
37 for the District of Columbia or the federal district where the compact
38 commission has its principal offices to enforce compliance with the
39 provisions of the compact and its adopted rules. The relief sought may
40 include both injunctive relief and damages. In the event that judicial
41 enforcement is necessary, the prevailing party shall be awarded all costs of
42 such litigation, including reasonable attorney fees. The remedies in this
43 compact shall not be the exclusive remedies of the compact commission.

1 The compact commission may pursue any other remedies available under
2 federal or the defaulting member state's law.

3 (2) A member state may initiate legal action against the compact
4 commission in the United States District Court for the District of
5 Columbia or the federal district where the compact commission has its
6 principal offices to enforce compliance with the provisions of the compact
7 and its adopted rules. The relief sought may include both injunctive relief
8 and damages. In the event judicial enforcement is necessary, the prevailing
9 party shall be awarded all costs of such litigation, including reasonable
10 attorney fees.

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

13 ARTICLE 12—EFFECTIVE DATE, WITHDRAWAL AND 14 AMENDMENT

15 (a) The compact shall come into effect on the date when the compact
16 statute is enacted into law in the seventh member state.

17 (1) On or after the effective date of the compact, the compact
18 commission shall convene and review the enactment of each of the first
19 seven member states or charter member states to determine if the statute
20 enacted by each such charter member state is materially different than the
21 model compact statute.

22 (A) A charter member state whose enactment is found to be
23 materially different from the model compact statute shall be entitled to the
24 default process set forth in article 11.

25 (B) If any member state is later found to be in default, is terminated
26 or withdraws from the compact, the compact commission shall remain in
27 existence and the compact shall remain in effect, even if the number of
28 member states should be fewer than seven.

29 (2) Member states enacting the compact subsequent to the seven
30 initial charter member states shall be subject to the process set forth in
31 article 8(c)(22) to determine if their enactments are materially different
32 from the model compact statute and whether they qualify for participation
33 in the compact.

34 (3) All actions taken for the benefit of the compact commission or in
35 furtherance of the purposes of the administration of the compact prior to
36 the effective date of the compact or the compact commission coming into
37 existence shall be considered to be actions of the compact commission
38 unless specifically repudiated by the compact commission.

39 (4) Any state that joins the compact subsequent to the compact
40 commission's initial adoption of the rules and bylaws shall be subject to
41 the rules and bylaws as they exist on the date on which the compact
42 becomes law in that state. Any rule that has been previously adopted by
43 the compact commission shall have the full force and effect of law on the

1 day the compact becomes law in that state.

2 (b) Any member state may withdraw from this compact by enacting a
3 statute repealing the same.

4 (1) A member state's withdrawal shall not take effect until 180 days
5 after enactment of the repealing statute.

6 (2) Withdrawal shall not affect the continuing requirement of the
7 withdrawing state's licensing authority to comply with the investigative
8 and adverse action reporting requirements of this compact prior to the
9 effective date of withdrawal.

10 (3) Upon the enactment of a statute withdrawing from this compact, a
11 state shall immediately provide notice of such withdrawal to all licensees
12 within that state. Notwithstanding any subsequent statutory enactment to
13 the contrary, such withdrawing state shall continue to recognize all
14 compact privileges granted pursuant to this compact for a minimum of 180
15 days after the date of such notice of withdrawal.

16 (A) Nothing contained in this compact shall be construed to
17 invalidate or prevent any licensure agreement or other cooperative
18 arrangement between a member state and a non-member state that does not
19 conflict with the provisions of this compact.

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

23 ARTICLE 13—CONSTRUCTION AND SEVERABILITY

24 (a) This compact and the compact commission's rulemaking authority
25 shall be liberally construed so as to effectuate the purposes, and the
26 implementation and administration of the compact. Provisions of the
27 compact expressly authorizing or requiring the promulgation of rules shall
28 not be construed to limit the compact commission's rulemaking authority
29 only for those purposes.

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

39 (c) Notwithstanding subsection (b), the compact commission may
40 deny a state's participation in the compact or, in accordance with the
41 requirements of article 11(b), terminate a member state's participation in
42 the compact, if it determines that a constitutional requirement of a member
43 state is a material departure from the compact. Otherwise, if this compact

1 shall be held to be contrary to the constitution of any member state, the
2 compact shall remain in full force and effect as to the remaining member
3 states and in full force and effect as to the member state affected as to all
4 severable matters.

5 ARTICLE 14—CONSISTENT EFFECT AND CONFLICT WITH
6 OTHER STATE LAWS

7 (a) This compact shall not prevent or inhibit the enforcement of any
8 other law of a member state that is not inconsistent with the compact.

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

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

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