

House _____ Amendment NO. _____

Offered By

1 AMEND Senate Bill No. 831, Page 1, In the Title, Line 3, by deleting all of said line and inserting
2 in lieu thereof the following:

3
4 "the practice of professional licenses."; and

5
6 Further amend said bill and page, Section A, Line 2, by inserting immediately after all of said
7 section and line the following:

8
9 "324.001. 1. For the purposes of this section, the following terms mean:

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

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

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

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

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

Standing Action Taken _____ Date _____

Select Action Taken _____ Date _____

1 board or commission shall issue the original license or certificate.

2 4. The division shall provide clerical and other staff services relating to the issuance and
3 renewal of licenses for all the professional licensing and regulating boards and commissions
4 assigned to the division. The division shall perform the financial management and clerical functions
5 as they each relate to issuance and renewal of licenses and certificates. "Issuance and renewal of
6 licenses and certificates" means the ministerial function of preparing and delivering licenses or
7 certificates, and obtaining material and information for the board or commission in connection with
8 the renewal thereof. It does not include any discretionary authority with regard to the original
9 review of an applicant's qualifications for licensure or certification, or the subsequent review of
10 licensee's or certificate holder's qualifications, or any disciplinary action contemplated against the
11 licensee or certificate holder. The division may develop and implement microfilming systems and
12 automated or manual management information systems.

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

19 6. For accounting purposes, the appropriation to the division and to the office of
20 administration for the payment of rent for quarters provided for the division shall be made from the
21 "Professional Registration Fees Fund", which is hereby created, and is to be used solely for the
22 purpose defined in subsection 5 of this section. The fund shall consist of moneys deposited into it
23 from each board's fund. Each board shall contribute a prorated amount necessary to fund the
24 division for services rendered and rent based upon the system of accounting and budgeting
25 established by the director of the division as provided in subsection 5 of this section. Transfers of
26 funds to the professional registration fees fund shall be made by each board on July first of each
27 year; provided, however, that the director of the division may establish an alternative date or dates
28 of transfers at the request of any board. Such transfers shall be made until they equal the prorated
29 amount for services rendered and rent by the division. The provisions of section 33.080 to the
30 contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of
31 general revenue.

32 7. The director of the division shall be responsible for collecting and accounting for all
33 moneys received by the division or its component agencies. Any money received by a board or
34 commission shall be promptly given, identified by type and source, to the director. The director
35 shall keep a record by board and state accounting system classification of the amount of revenue the
36 director receives. The director shall promptly transmit all receipts to the department of revenue for
37 deposit in the state treasury to the credit of the appropriate fund. The director shall provide each
38 board with all relevant financial information in a timely fashion. Each board shall cooperate with
39 the director by providing necessary information.

40 8. All educational transcripts, test scores, complaints, investigatory reports, and information
41 pertaining to any person who is an applicant or licensee of any agency assigned to the division of
42 professional registration by statute or by the department are confidential and may not be disclosed to
43 the public or any member of the public, except with the written consent of the person whose records
44 are involved. The agency which possesses the records or information shall disclose the records or
45 information if the person whose records or information is involved has consented to the disclosure.
46 Each agency is entitled to the attorney-client privilege and work-product privilege to the same
47 extent as any other person. Provided, however, that any board may disclose confidential
48 information without the consent of the person involved in the course of voluntary interstate

1 exchange of information, or in the course of any litigation concerning that person, or pursuant to a
2 lawful request, or to other administrative or law enforcement agencies acting within the scope of
3 their statutory authority. Information regarding identity, including names and addresses,
4 registration, and currency of the license of the persons possessing licenses to engage in a
5 professional occupation and the names and addresses of applicants for such licenses is not
6 confidential information.

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

10 10. A compelling governmental interest shall be deemed to exist for the purposes of section
11 536.025 for licensure fees to be reduced by emergency rule, if the projected fund balance of any
12 agency assigned to the division of professional registration is reasonably expected to exceed an
13 amount that would require transfer from that fund to general revenue.

14 11. (1) The following boards and commissions are assigned by specific type transfers to the
15 division of professional registration: Missouri state board of accountancy, chapter 326; board of
16 cosmetology and barber examiners, chapters 328 and 329; Missouri board for architects,
17 professional engineers, professional land surveyors and landscape architects, chapter 327; Missouri
18 state board of chiropractic examiners, chapter 331; state board of registration for the healing arts,
19 chapter 334; Missouri dental board, chapter 332; state board of embalmers and funeral directors,
20 chapter 333; state board of optometry, chapter 336; Missouri state board of nursing, chapter 335;
21 board of pharmacy, chapter 338; state board of podiatric medicine, chapter 330; Missouri real estate
22 appraisers commission, chapter 339; and Missouri veterinary medical board, chapter 340. The
23 governor shall appoint members of these boards by and with the advice and consent of the senate.

24 (2) The boards and commissions assigned to the division shall exercise all their respective
25 statutory duties and powers, except those clerical and other staff services involving collecting and
26 accounting for moneys and financial management relating to the issuance and renewal of licenses,
27 which services shall be provided by the division, within the appropriation therefor. Nothing herein
28 shall prohibit employment of professional examining or testing services from professional
29 associations or others as required by the boards or commissions on contract. Nothing herein shall
30 be construed to affect the power of a board or commission to expend its funds as appropriated.
31 However, the division shall review the expense vouchers of each board. The results of such review
32 shall be submitted to the board reviewed and to the house and senate appropriations committees
33 annually.

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

38 (4) "Board personnel", as used in this section or chapters 317, 326, 327, 328, 329, 330, 331,
39 332, 333, 334, 335, 336, 337, 338, 339, 340, and 345, shall mean personnel whose functions and
40 responsibilities are in areas not related to the clerical duties involving the issuance and renewal of
41 licenses, to the collecting and accounting for moneys, or to financial management relating to
42 issuance and renewal of licenses; specifically included are executive secretaries (or comparable
43 positions), consultants, inspectors, investigators, counsel, and secretarial support staff for these
44 positions; and such other positions as are established and authorized by statute for a particular board
45 or commission. Boards and commissions may employ legal counsel, if authorized by law, and
46 temporary personnel if the board is unable to meet its responsibilities with the employees authorized
47 above. Any board or commission which hires temporary employees shall annually provide the
48 division director and the appropriation committees of the general assembly with a complete list of

1 all persons employed in the previous year, the length of their employment, the amount of their
2 remuneration, and a description of their responsibilities.

3 (5) Board personnel for each board or commission shall be employed by and serve at the
4 pleasure of the board or commission, shall be supervised as the board or commission designates, and
5 shall have their duties and compensation prescribed by the board or commission, within
6 appropriations for that purpose, except that compensation for board personnel shall not exceed that
7 established for comparable positions as determined by the board or commission pursuant to the job
8 and pay plan of the department of insurance, financial institutions and professional registration.
9 Nothing herein shall be construed to permit salaries for any board personnel to be lowered except by
10 board action.

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

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

16 14. (1) The state board of nursing, board of pharmacy, Missouri dental board, state
17 committee of psychologists, state board of chiropractic examiners, state board of optometry,
18 Missouri board of occupational therapy, or state board of registration for the healing arts may
19 individually or collectively enter into a contractual agreement with the department of health and
20 senior services, a public institution of higher education, or a nonprofit entity for the purpose of
21 collecting and analyzing workforce data from its licensees, registrants, or permit holders for future
22 workforce planning and to assess the accessibility and availability of qualified health care services
23 and practitioners in Missouri. The boards shall work collaboratively with other state governmental
24 entities to ensure coordination and avoid duplication of efforts.

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

29 (3) Data collection shall be controlled and approved by the applicable state board
30 conducting or requesting the collection. Notwithstanding the provisions of sections 324.010 and
31 334.001, the boards may release identifying data to the contractor to facilitate data analysis of the
32 health care workforce including, but not limited to, geographic, demographic, and practice or
33 professional characteristics of licensees. The state board shall not request or be authorized to collect
34 income or other financial earnings data.

35 (4) Data collected under this subsection shall be deemed the property of the state board
36 requesting the data. Data shall be maintained by the state board in accordance with chapter 610,
37 provided that any information deemed closed or confidential under subsection 8 of this section or
38 any other provision of state law shall not be disclosed without consent of the applicable licensee or
39 entity or as otherwise authorized by law. Data shall only be released in an aggregate form by
40 geography, profession or professional specialization, or population characteristic in a manner that
41 cannot be used to identify a specific individual or entity. Data suppression standards shall be
42 addressed and established in the contractual agreement.

43 (5) Contractors shall maintain the security and confidentiality of data received or collected
44 under this subsection and shall not use, disclose, or release any data without approval of the
45 applicable state board. The contractual agreement between the applicable state board and contractor
46 shall establish a data release and research review policy to include legal and institutional review
47 board, or agency equivalent, approval.

48 (6) Each board may promulgate rules subject to the provisions of this subsection and

1 chapter 536 to effectuate and implement the workforce data collection and analysis authorized by
2 this subsection. Any rule or portion of a rule, as that term is defined in section 536.010, that is
3 created under the authority delegated in this section shall become effective only if it complies with
4 and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This
5 section and chapter 536 are nonseverable, and if any of the powers vested with the general assembly
6 under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are
7 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or
8 adopted after August 28, 2016, shall be invalid and void."; and
9

10 Further amend said bill and page, Section 324.003, Line 15, by inserting immediately after all of
11 said sections and line the following:

12
13 "324.004. 1. (1) The purpose of this section is to promote the general welfare by
14 establishing guidelines for the regulation of occupations and professions not regulated prior to
15 January 1, 2017.

16 (2) All individuals may engage in the occupation of their choice, free from unreasonable
17 government regulation. The state shall not impose a substantial burden on an individual's pursuit of
18 his or her occupation or profession unless there is an important governmental interest for the state to
19 protect the general welfare. If such an interest exists, the regulation adopted by the state shall be the
20 least restrictive type of occupational regulation consistent with the public interest to be protected.

21 (3) All bills introduced in the legislature to regulate an occupation or profession for the first
22 time shall be reviewed according to the following criteria. An occupation or profession shall be
23 regulated by the state only if:

24 (a) Unregulated practice has caused significant harm and endangered the general welfare
25 and the potential for further harm and endangerment is easily recognizable and not remote or
26 dependent upon tenuous argument;

27 (b) The public needs and can reasonably be expected to benefit from an assurance of initial
28 personal qualifications; and

29 (c) The general welfare cannot be effectively protected by other means.

30 (4) After evaluating the criteria in subdivision (3) of this subsection and considering
31 governmental, economic, and societal costs and benefits, if the legislature finds that the state has an
32 important interest in regulating an occupation or profession not previously regulated by law, the
33 least restrictive type of occupational regulation shall be implemented, consistent with the need to
34 protect the general welfare and this section. If:

35 (a) Market competition, common law, statutory civil actions, and criminal prohibitions are
36 insufficient to eradicate actual harm, the regulation shall provide for stricter civil actions and
37 criminal prosecutions;

38 (b) A service is being performed for individuals involving a hazard to the general welfare,
39 the regulation shall impose inspection requirements and enable an appropriate state agency to
40 enforce violations by injunctive relief in court including, but not limited to, regulation of the
41 business activity providing the service rather than practitioners;

42 (c) The threat to the general welfare resulting from the practitioner's services is relatively
43 small, easily identifiable, or predictable, the regulation shall implement a system of insurance,
44 bonding, or registration;

45 (d) The consumer possesses significantly less information so that the practitioner puts the
46 consumer in a disadvantageous position relative to the practitioner to judge the quality of the
47 practitioner's services, the regulation shall implement a voluntary system of certification; or

48 (e) There is no other type of regulation that will protect the general welfare other than

1 licensing, the regulation shall implement a system of licensing.

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

3 (1) "Applicant group", any occupational or professional group or organization, any
4 individual, or any other interested party that proposes that any occupation or profession not
5 presently regulated be regulated;

6 (2) "Certification", a voluntary program in which the government grants nontransferable
7 recognition to an individual who meets personal qualifications established by a legislative body.
8 Upon approval, the individual may use "certified" as a designated title. Someone who has not been
9 recognized as certified may perform the occupation for compensation lawfully, but shall not use the
10 title "certified". This term shall not be synonymous with an occupational license or prohibit the use
11 of private certification;

12 (3) "General welfare", the concern of the government for the health, peace, morality, and
13 safety of its citizens;

14 (4) "Grandfather clause", a provision in a regulatory statute applicable to practitioners
15 actively engaged in the regulated occupation or profession prior to the effective date of the
16 regulatory statute which exempts the practitioners from meeting the personal qualifications set forth
17 in the regulatory statute to perform prescribed occupational tasks;

18 (5) "Inspection", the periodic examination of practitioners by a state agency in order to
19 ascertain whether the practitioners' activities are being carried out in a fashion consistent with the
20 requisite level of cleanliness necessary to protect the general welfare;

21 (6) "Lawful occupation", a course of conduct, pursuit, or profession that includes the sale of
22 goods or services that are not themselves illegal to sell irrespective of whether the individual selling
23 them is subject to an occupational regulation;

24 (7) "Least restrictive type of occupational regulations", in order from least to most
25 restrictive:

26 (a) Market competition;

27 (b) A provision for private civil action to remedy consumer harm;

28 (c) Criminal sanction;

29 (d) Regulation of the business activity providing the service rather than the practitioner;

30 (e) Inspection;

31 (f) Bonding or insurance;

32 (g) Registration;

33 (h) Certification;

34 (i) Occupational license;

35 (8) "Legislative committees of reference", the standing legislative committees designated by
36 the respective rules committees of the senate and house of representatives to consider proposed
37 legislation to regulate occupations, or professions not previously regulated;

38 (9) "Occupational license", a nontransferable authorization in law for an individual to
39 perform a lawful occupation for compensation based on meeting personal qualifications established
40 by a legislative body. It shall be prohibited for an individual who does not possess an occupational
41 license to perform the occupation for compensation;

42 (10) "Occupational regulation", a statute, ordinance, rule, practice, policy, or other law
43 requiring an individual to possess certain personal qualifications to work in a lawful occupation;

44 (11) "Personal qualifications", criteria related to an individual's personal background
45 including completion of an approved educational program, satisfactory performance on an
46 examination, work experience, criminal history, moral standing, and completion of continuing
47 education;

48 (12) "Practitioner", an individual who has achieved knowledge and skill by practice and is

1 actively engaged in a specified occupation or profession;

2 (13) "Public member", an individual who is not currently, and has never been in the past, a
 3 member or spouse of a member of the occupation or profession being regulated or an individual
 4 who does not currently have and has never in the past had a material financial interest in either the
 5 rendering of the occupation or professional service being regulated or an activity directly related to
 6 the occupation or profession being regulated;

7 (14) "Registration", a requirement established by the legislature in which a person submits
 8 notification to a state agency and may use "registered" as a designated title. Notification may
 9 include the person's name and address, the person's agent for service of process, the location of the
 10 activity to be performed, and a description of the service the person provides. Registration may
 11 include a requirement to post a bond, but does not include education or experience requirements.
 12 Nonregistered persons may not perform the occupation for compensation or use "registered" as a
 13 designated title. The term registration shall not be synonymous with an occupational license and
 14 does not refer to or prohibit the use of private registration;

15 (15) "Regulatory entity", any board, commission, agency, division, or other unit or subunit
 16 of state government which regulates one or more professions, occupations, industries, businesses, or
 17 other endeavors in this state;

18 (16) "State agency", every state office, department, board, commission, regulatory entity,
 19 and agency of the state, and, if provided by law, programs and activities involving less than the full
 20 responsibility of a state agency;

21 (17) "Substantial burden", a requirement in an occupational regulation that imposes
 22 significant difficulty or cost on an individual seeking to enter into or continue in a lawful occupation
 23 and is more than an incidental burden.

24 3. The general assembly shall not pass any laws regulating an occupation or profession for
 25 the first time except by bill, as defined in section 21.600, which has been referred to the legislative
 26 committees of reference in both houses, reviewed in accordance with this section by each
 27 committee, and voted upon in favor by a majority of committee members as required by rule of the
 28 respective house. Any amendment containing language to regulate an occupation or profession for
 29 the first time shall not be adopted onto a bill in either house, unless such language is identical to a
 30 bill which has been heard and voted on in favor by a legislative committee of reference in the house
 31 where the amendment is being proposed.

32 4. After January 1, 2017, applicant groups shall submit a written report explaining each of
 33 the following factors to the legislative committees of reference prior to the bill, containing the
 34 proposed regulation, being heard before the committee in each house:

35 (1) A definition of the problem and why regulation is necessary including, but not limited
 36 to:

37 (a) The description and quantification of the actual harm to the general public due to the
 38 fact that the occupation or profession is not regulated;

39 (b) The extent to which the actual harm could be avoided;

40 (c) A description of how consumers will benefit in the future from the proposed type of
 41 regulation; and

42 (d) The extent of autonomy a practitioner has, as indicated by:

43 a. The extent to which the occupation or profession calls for independent judgment and the
 44 extent of skill or experience required in making the independent judgment; and

45 b. The extent to which practitioners are supervised;

46 (2) The efforts made to address the actual harm caused:

47 (a) Voluntary efforts, if any, by members of the occupation or profession to:

48 a. Establish a code of ethics; or

- 1 b. Help resolve disputes between practitioners and consumers; and
2 (b) Recourse to and the extent of use of applicable law and whether it could be strengthened
3 to control the problem;
4 (3) The alternatives considered including, but not limited to:
5 (a) Increased civil or criminal sanctions;
6 (b) Regulation of businesses rather than practitioners;
7 (c) Regulation of the service or training program rather than the individual practitioners;
8 (d) Inspections;
9 (e) Bonding or insurance;
10 (f) Registration of all practitioners;
11 (g) Certification of all practitioners;
12 (h) Other alternatives;
13 (i) Why the use of the alternatives specified in this subsection would not be adequate to
14 protect the general welfare; and
15 (j) Why licensing would serve to protect the general welfare;
16 (4) The benefit to the public if regulation is granted;
17 (5) The extent to which the incidences of specific problems present in the unregulated
18 occupation or profession can reasonably be expected to be reduced by proposed regulation;
19 (6) Whether the public can identify qualified practitioners;
20 (7) The extent to which the public can be confident that qualified practitioners are
21 competent:
22 (a) Whether the proposed regulatory entity would be a board composed of members of the
23 profession and public members, a state agency, or both, and, if appropriate, their respective
24 responsibilities in administering the system of inspections, bonding, insurance, registration,
25 certification, or licensure, including the composition of the board and the number of public
26 members, if any; the powers and duties of the board or state agency regarding examinations and for
27 cause revocation, suspension, and nonrenewal of registrations, certificates, or licenses; the
28 promulgation of rules and canons of ethics; the conduct of inspections; the receipt of complaints and
29 disciplinary action taken against practitioners; and how fees would be levied and collected to cover
30 the expenses of administering and operating the regulatory system;
31 (b) If there is a grandfather clause, how consumers will be protected from the harm caused
32 by current practitioners that is the basis for advocating for the enactment of the proposed regulation;
33 (c) If there is a grandfather clause, if current practitioners will be required to meet the
34 prerequisite qualifications established by the regulatory entity at a later date and if not, why not;
35 (d) Whether the regulatory entity would be authorized to enter into reciprocity agreements
36 with other jurisdictions;
37 (e) The nature and duration of any training including, but not limited to, whether the
38 training includes a substantial amount of supervised field experience; whether training programs
39 exist in this state; if there will be an experience requirement; whether the experience shall be
40 acquired under a registered, certified, or licensed practitioner; whether there are alternative routes of
41 entry or methods of meeting the prerequisite qualifications; whether all applicants will be required
42 to pass an examination; and, if an examination is required, by whom it will be developed and how
43 the costs of development will be met; and
44 (f) What additional training programs are anticipated to be necessary to assure training is
45 accessible statewide; the anticipated time required to establish the additional training programs; the
46 types of institutions capable of providing the training; a description of how training programs will
47 meet the needs of the expected workforce, including reentry workers, minorities, placebound
48 students, and others;

- 1 (8) Assurance of the public that practitioners have maintained their competence:
2 (a) Whether the registration, certification, or licensure will carry an expiration date; and
3 (b) Whether renewal will be based only upon payment of a fee, or whether renewal will
4 involve reexamination, peer review, or other enforcement;
5 (9) The extent to which regulation might harm the public;
6 (10) The extent to which regulation will restrict entry into the occupation or profession:
7 (a) Whether the proposed personal qualifications are more restrictive than necessary to
8 insure safe and effective performance;
9 (b) How the proposed personal qualifications compare to other regulations in the state
10 which may involve greater risks to the general welfare; and
11 (c) The number of other states that regulate the same occupation or profession and how the
12 proposed personal qualifications compare to required personal qualifications in other states that
13 regulate the same occupation or profession;
14 (11) Whether there are similar professions to that of the applicant group which shall be
15 included in or portions of the applicant group which shall be excluded from the proposed
16 legislation;
17 (12) The maintenance of personal qualifications;
18 (13) Whether effective quality assurance standards exist in the occupation or profession,
19 such as legal requirements associated with specific programs that define or enforce professional
20 standards, or a code of ethics;
21 (14) How the proposed legislation will assure:
22 (a) The extent to which a code of ethics, if any, will be adopted; and
23 (b) Grounds for suspension or revocation of registration, certification, or licensure;
24 (15) A description of the group proposed for regulation, including a list of associations,
25 organizations, and other groups representing the practitioners in this state, an estimate of the number
26 of practitioners in each group, and whether the groups represent different levels of practice; and
27 (16) The expected costs of regulation including, but not limited to:
28 (a) The impact registration, certification, or licensure will have on the costs of the services
29 to the public;
30 (b) The cost to the state and to the general public of implementing the proposed legislation;
31 and
32 (c) The cost to the state and the members of the group proposed for regulation for the
33 required education, including projected tuition and expenses and expected increases in training
34 programs, staffing, and enrollments at state training institutions.
35 5. A legislative proposal which contains a continuing education requirement shall be
36 accompanied by a detailed explanation of how such requirement could be effective for the
37 profession addressed in the legislation.
38 6. Nothing in this section shall be construed to create a right of action against a private party
39 or to require a private party to do business with an individual who is not licensed, certified, or
40 registered with the government or to create a right of action against the state, county, municipal, or
41 other level of government in the state.
42 334.037. 1. A physician may enter into collaborative practice arrangements with assistant
43 physicians. Collaborative practice arrangements shall be in the form of written agreements, jointly
44 agreed-upon protocols, or standing orders for the delivery of health care services. Collaborative
45 practice arrangements, which shall be in writing, may delegate to an assistant physician the
46 authority to administer or dispense drugs and provide treatment as long as the delivery of such
47 health care services is within the scope of practice of the assistant physician and is consistent with
48 that assistant physician's skill, training, and competence and the skill and training of the

1 collaborating physician.

2 2. The written collaborative practice arrangement shall contain at least the following
3 provisions:

4 (1) Complete names, home and business addresses, zip codes, and telephone numbers of the
5 collaborating physician and the assistant physician;

6 (2) A list of all other offices or locations besides those listed in subdivision (1) of this
7 subsection where the collaborating physician authorized the assistant physician to prescribe;

8 (3) A requirement that there shall be posted at every office where the assistant physician is
9 authorized to prescribe, in collaboration with a physician, a prominently displayed disclosure
10 statement informing patients that they may be seen by an assistant physician and have the right to
11 see the collaborating physician;

12 (4) All specialty or board certifications of the collaborating physician and all certifications
13 of the assistant physician;

14 (5) The manner of collaboration between the collaborating physician and the assistant
15 physician, including how the collaborating physician and the assistant physician shall:

16 (a) Engage in collaborative practice consistent with each professional's skill, training,
17 education, and competence;

18 (b) Maintain geographic proximity; except, the collaborative practice arrangement may
19 allow for geographic proximity to be waived for a maximum of twenty-eight days per calendar year
20 for rural health clinics as defined by P.L. 95-210, as long as the collaborative practice arrangement
21 includes alternative plans as required in paragraph (c) of this subdivision. Such exception to
22 geographic proximity shall apply only to independent rural health clinics, provider-based rural
23 health clinics if the provider is a critical access hospital as provided in 42 U.S.C. Section 1395i-4,
24 and provider-based rural health clinics if the main location of the hospital sponsor is greater than
25 fifty miles from the clinic. The collaborating physician shall maintain documentation related to
26 such requirement and present it to the state board of registration for the healing arts when requested;
27 and

28 (c) Provide coverage during absence, incapacity, infirmity, or emergency by the
29 collaborating physician;

30 (6) A description of the assistant physician's controlled substance prescriptive authority in
31 collaboration with the physician, including a list of the controlled substances the physician
32 authorizes the assistant physician to prescribe and documentation that it is consistent with each
33 professional's education, knowledge, skill, and competence;

34 (7) A list of all other written practice agreements of the collaborating physician and the
35 assistant physician;

36 (8) The duration of the written practice agreement between the collaborating physician and
37 the assistant physician;

38 (9) A description of the time and manner of the collaborating physician's review of the
39 assistant physician's delivery of health care services. The description shall include provisions that
40 the assistant physician shall submit a minimum of ten percent of the charts documenting the
41 assistant physician's delivery of health care services to the collaborating physician for review by the
42 collaborating physician, or any other physician designated in the collaborative practice arrangement,
43 every fourteen days. In performing the review, the collaborating physician need not be present at
44 the health care practitioner's site; and

45 (10) The collaborating physician, or any other physician designated in the collaborative
46 practice arrangement, shall review every fourteen days a minimum of twenty percent of the charts in
47 which the assistant physician prescribes controlled substances. The charts reviewed under this
48 subdivision may be counted in the number of charts required to be reviewed under subdivision (9)

1 of this subsection.

2 3. The state board of registration for the healing arts under section 334.125 shall promulgate
3 rules regulating the use of collaborative practice arrangements for assistant physicians. Such rules
4 shall specify:

5 (1) Geographic areas to be covered;

6 (2) The methods of treatment that may be covered by collaborative practice arrangements;

7 (3) In conjunction with deans of medical schools and primary care residency program
8 directors in the state, the development and implementation of educational methods and programs
9 undertaken during the collaborative practice service which shall facilitate the advancement of the
10 assistant physician's medical knowledge and capabilities, and which may lead to credit toward a
11 future residency program for programs that deem such documented educational achievements
12 acceptable; and

13 (4) The requirements for review of services provided under collaborative practice
14 arrangements, including delegating authority to prescribe controlled substances.

15
16 Any rules relating to dispensing or distribution of medications or devices by prescription or
17 prescription drug orders under this section shall be subject to the approval of the state board of
18 pharmacy. Any rules relating to dispensing or distribution of controlled substances by prescription
19 or prescription drug orders under this section shall be subject to the approval of the department of
20 health and senior services and the state board of pharmacy. The state board of registration for the
21 healing arts shall promulgate rules applicable to assistant physicians that shall be consistent with
22 guidelines for federally funded clinics. The rulemaking authority granted in this subsection shall
23 not extend to collaborative practice arrangements of hospital employees providing inpatient care
24 within hospitals as defined in chapter 197 or population-based public health services as defined by
25 20 CSR 2150-5.100 as of April 30, 2008.

26 4. The state board of registration for the healing arts shall not deny, revoke, suspend, or
27 otherwise take disciplinary action against a collaborating physician for health care services
28 delegated to an assistant physician provided the provisions of this section and the rules promulgated
29 thereunder are satisfied.

30 5. Within thirty days of any change and on each renewal, the state board of registration for
31 the healing arts shall require every physician to identify whether the physician is engaged in any
32 collaborative practice arrangement, including collaborative practice arrangements delegating the
33 authority to prescribe controlled substances, and also report to the board the name of each assistant
34 physician with whom the physician has entered into such arrangement. The board may make such
35 information available to the public. The board shall track the reported information and may
36 routinely conduct random reviews of such arrangements to ensure that arrangements are carried out
37 for compliance under this chapter.

38 6. A collaborating physician shall not enter into a collaborative practice arrangement with
39 more than three full-time equivalent assistant physicians. Such limitation shall not apply to
40 collaborative arrangements of hospital employees providing inpatient care service in hospitals as
41 defined in chapter 197 or population-based public health services as defined by 20 CSR 2150-5.100
42 as of April 30, 2008.

43 7. The collaborating physician shall determine and document the completion of at least a
44 one-month period of time during which the assistant physician shall practice with the collaborating
45 physician continuously present before practicing in a setting where the collaborating physician is not
46 continuously present. Such limitation shall not apply to collaborative arrangements of providers of
47 population-based public health services as defined by 20 CSR 2150-5.100 as of April 30, 2008, nor
48 to collaborative arrangements between a physician and an assistant physician, if the collaborative

1 physician is new to a patient population to which the collaborating assistant physician is already
2 familiar.

3 8. No agreement made under this section shall supersede current hospital licensing
4 regulations governing hospital medication orders under protocols or standing orders for the purpose
5 of delivering inpatient or emergency care within a hospital as defined in section 197.020 if such
6 protocols or standing orders have been approved by the hospital's medical staff and pharmaceutical
7 therapeutics committee.

8 9. No contract or other agreement shall require a physician to act as a collaborating
9 physician for an assistant physician against the physician's will. A physician shall have the right to
10 refuse to act as a collaborating physician, without penalty, for a particular assistant physician. No
11 contract or other agreement shall limit the collaborating physician's ultimate authority over any
12 protocols or standing orders or in the delegation of the physician's authority to any assistant
13 physician, but such requirement shall not authorize a physician in implementing such protocols,
14 standing orders, or delegation to violate applicable standards for safe medical practice established
15 by a hospital's medical staff.

16 10. No contract or other agreement shall require any assistant physician to serve as a
17 collaborating assistant physician for any collaborating physician against the assistant physician's
18 will. An assistant physician shall have the right to refuse to collaborate, without penalty, with a
19 particular physician.

20 11. All collaborating physicians and assistant physicians in collaborative practice
21 arrangements shall wear identification badges while acting within the scope of their collaborative
22 practice arrangement. The identification badges shall prominently display the licensure status of
23 such collaborating physicians and assistant physicians.

24 12. (1) An assistant physician with a certificate of controlled substance prescriptive
25 authority as provided in this section may prescribe any controlled substance listed in Schedule III,
26 IV, or V of section 195.017, and may have restricted authority in Schedule II, when delegated the
27 authority to prescribe controlled substances in a collaborative practice arrangement. Prescriptions
28 for Schedule II medications prescribed by an assistant physician who has a certificate of controlled
29 substance prescriptive authority are restricted to only those medications containing hydrocodone.
30 Such authority shall be filed with the state board of registration for the healing arts. The
31 collaborating physician shall maintain the right to limit a specific scheduled drug or scheduled drug
32 category that the assistant physician is permitted to prescribe. Any limitations shall be listed in the
33 collaborative practice arrangement. Assistant physicians shall not prescribe controlled substances
34 for themselves or members of their families. Schedule III controlled substances and Schedule II -
35 hydrocodone prescriptions shall be limited to a five-day supply without refill. Assistant physicians
36 who are authorized to prescribe controlled substances under this section shall register with the
37 federal Drug Enforcement Administration and the state bureau of narcotics and dangerous drugs,
38 and shall include the Drug Enforcement Administration registration number on prescriptions for
39 controlled substances.

40 (2) The collaborating physician shall be responsible to determine and document the
41 completion of at least one hundred twenty hours in a four-month period by the assistant physician
42 during which the assistant physician shall practice with the collaborating physician on-site prior to
43 prescribing controlled substances when the collaborating physician is not on-site. Such limitation
44 shall not apply to assistant physicians of population-based public health services as defined in 20
45 CSR 2150-5.100 as of April 30, 2009.

46 (3) An assistant physician shall receive a certificate of controlled substance prescriptive
47 authority from the state board of registration for the healing arts upon verification of licensure under
48 section 334.036.

1 334.104. 1. A physician may enter into collaborative practice arrangements with registered
2 professional nurses. Collaborative practice arrangements shall be in the form of written agreements,
3 jointly agreed-upon protocols, or standing orders for the delivery of health care services.
4 Collaborative practice arrangements, which shall be in writing, may delegate to a registered
5 professional nurse the authority to administer or dispense drugs and provide treatment as long as the
6 delivery of such health care services is within the scope of practice of the registered professional
7 nurse and is consistent with that nurse's skill, training and competence.

8 2. Collaborative practice arrangements, which shall be in writing, may delegate to a
9 registered professional nurse the authority to administer, dispense or prescribe drugs and provide
10 treatment if the registered professional nurse is an advanced practice registered nurse as defined in
11 subdivision (2) of section 335.016. Collaborative practice arrangements may delegate to an
12 advanced practice registered nurse, as defined in section 335.016, the authority to administer,
13 dispense, or prescribe controlled substances listed in Schedules III, IV, and V of section 195.017,
14 and Schedule II - hydrocodone; except that, the collaborative practice arrangement shall not
15 delegate the authority to administer any controlled substances listed in Schedules III, IV, and V of
16 section 195.017, or Schedule II - hydrocodone for the purpose of inducing sedation or general
17 anesthesia for therapeutic, diagnostic, or surgical procedures. Schedule III narcotic controlled
18 substance and Schedule II - hydrocodone prescriptions shall be limited to a one hundred twenty-
19 hour supply without refill. Such collaborative practice arrangements shall be in the form of written
20 agreements, jointly agreed-upon protocols or standing orders for the delivery of health care services.

21 3. The written collaborative practice arrangement shall contain at least the following
22 provisions:

23 (1) Complete names, home and business addresses, zip codes, and telephone numbers of the
24 collaborating physician and the advanced practice registered nurse;

25 (2) A list of all other offices or locations besides those listed in subdivision (1) of this
26 subsection where the collaborating physician authorized the advanced practice registered nurse to
27 prescribe;

28 (3) A requirement that there shall be posted at every office where the advanced practice
29 registered nurse is authorized to prescribe, in collaboration with a physician, a prominently
30 displayed disclosure statement informing patients that they may be seen by an advanced practice
31 registered nurse and have the right to see the collaborating physician;

32 (4) All specialty or board certifications of the collaborating physician and all certifications
33 of the advanced practice registered nurse;

34 (5) The manner of collaboration between the collaborating physician and the advanced
35 practice registered nurse, including how the collaborating physician and the advanced practice
36 registered nurse will:

37 (a) Engage in collaborative practice consistent with each professional's skill, training,
38 education, and competence;

39 (b) Maintain geographic proximity, except the collaborative practice arrangement may allow
40 for geographic proximity to be waived [for a maximum of twenty-eight days per calendar year for
41 rural health clinics as defined by P.L. 95-210], as long as the collaborative practice arrangement
42 includes alternative plans as required in paragraph (c) of this subdivision[. This exception to
43 geographic proximity shall apply only to independent rural health clinics, provider-based rural
44 health clinics where the provider is a critical access hospital as provided in 42 U.S.C. Section 1395i-
45 4, and provider-based rural health clinics where the main location of the hospital sponsor is greater
46 than fifty miles from the clinic. The collaborating physician is required to maintain documentation
47 related to this requirement and to present it to the state board of registration for the healing arts
48 when requested]; and

1 (c) Provide coverage during absence, incapacity, infirmity, or emergency by the
2 collaborating physician;

3 (6) A description of the advanced practice registered nurse's controlled substance
4 prescriptive authority in collaboration with the physician, including a list of the controlled
5 substances the physician authorizes the nurse to prescribe and documentation that it is consistent
6 with each professional's education, knowledge, skill, and competence;

7 (7) A list of all other written practice agreements of the collaborating physician and the
8 advanced practice registered nurse;

9 (8) The duration of the written practice agreement between the collaborating physician and
10 the advanced practice registered nurse;

11 (9) A description of the time and manner of the collaborating physician's review of the
12 advanced practice registered nurse's delivery of health care services. The description shall include
13 provisions that the advanced practice registered nurse shall submit a minimum of ten percent of the
14 charts documenting the advanced practice registered nurse's delivery of health care services to the
15 collaborating physician for review by the collaborating physician, or any other physician designated
16 in the collaborative practice arrangement, every fourteen days. In performing the review, the
17 collaborating physician need not be present at the health care practitioner's site; and

18 (10) The collaborating physician, or any other physician designated in the collaborative
19 practice arrangement, shall review every fourteen days a minimum of twenty percent of the charts in
20 which the advanced practice registered nurse prescribes controlled substances. The charts reviewed
21 under this subdivision may be counted in the number of charts required to be reviewed under
22 subdivision (9) of this subsection.

23 4. The state board of registration for the healing arts pursuant to section 334.125 and the
24 board of nursing pursuant to section 335.036 may jointly promulgate rules regulating the use of
25 collaborative practice arrangements. Such rules shall be limited to [specifying geographic areas to
26 be covered,] the methods of treatment that may be covered by collaborative practice arrangements
27 and the requirements for review of services provided pursuant to collaborative practice
28 arrangements including delegating authority to prescribe controlled substances. Any rules relating
29 to dispensing or distribution of medications or devices by prescription or prescription drug orders
30 under this section shall be subject to the approval of the state board of pharmacy. Any rules relating
31 to dispensing or distribution of controlled substances by prescription or prescription drug orders
32 under this section shall be subject to the approval of the department of health and senior services
33 and the state board of pharmacy. In order to take effect, such rules shall be approved by a majority
34 vote of a quorum of each board. Neither the state board of registration for the healing arts nor the
35 board of nursing may separately promulgate rules relating to collaborative practice arrangements.
36 Such jointly promulgated rules shall be consistent with guidelines for federally funded clinics. The
37 rulemaking authority granted in this subsection shall not extend to collaborative practice
38 arrangements of hospital employees providing inpatient care within hospitals as defined pursuant to
39 chapter 197 or population-based public health services as defined by 20 CSR 2150-5.100 as of April
40 30, 2008.

41 5. The state board of registration for the healing arts shall not deny, revoke, suspend or
42 otherwise take disciplinary action against a physician for health care services delegated to a
43 registered professional nurse provided the provisions of this section and the rules promulgated
44 thereunder are satisfied. Upon the written request of a physician subject to a disciplinary action
45 imposed as a result of an agreement between a physician and a registered professional nurse or
46 registered physician assistant, whether written or not, prior to August 28, 1993, all records of such
47 disciplinary licensure action and all records pertaining to the filing, investigation or review of an
48 alleged violation of this chapter incurred as a result of such an agreement shall be removed from the

1 records of the state board of registration for the healing arts and the division of professional
2 registration and shall not be disclosed to any public or private entity seeking such information from
3 the board or the division. The state board of registration for the healing arts shall take action to
4 correct reports of alleged violations and disciplinary actions as described in this section which have
5 been submitted to the National Practitioner Data Bank. In subsequent applications or
6 representations relating to his medical practice, a physician completing forms or documents shall
7 not be required to report any actions of the state board of registration for the healing arts for which
8 the records are subject to removal under this section.

9 6. Within thirty days of any change and on each renewal, the state board of registration for
10 the healing arts shall require every physician to identify whether the physician is engaged in any
11 collaborative practice agreement, including collaborative practice agreements delegating the
12 authority to prescribe controlled substances, or physician assistant agreement and also report to the
13 board the name of each licensed professional with whom the physician has entered into such
14 agreement. The board may make this information available to the public. The board shall track the
15 reported information and may routinely conduct random reviews of such agreements to ensure that
16 agreements are carried out for compliance under this chapter.

17 7. Notwithstanding any law to the contrary, a certified registered nurse anesthetist as defined
18 in subdivision (8) of section 335.016 shall be permitted to provide anesthesia services without a
19 collaborative practice arrangement provided that he or she is under the supervision of an
20 anesthesiologist or other physician, dentist, or podiatrist who is immediately available if needed.
21 Nothing in this subsection shall be construed to prohibit or prevent a certified registered nurse
22 anesthetist as defined in subdivision (8) of section 335.016 from entering into a collaborative
23 practice arrangement under this section, except that the collaborative practice arrangement may not
24 delegate the authority to prescribe any controlled substances listed in Schedules III, IV, and V of
25 section 195.017, or Schedule II - hydrocodone.

26 8. A collaborating physician shall not enter into a collaborative practice arrangement with
27 more than [three] five full-time equivalent advanced practice registered nurses. This limitation shall
28 not apply to collaborative arrangements of hospital employees providing inpatient care service in
29 hospitals as defined in chapter 197 or population-based public health services as defined by 20 CSR
30 2150-5.100 as of April 30, 2008.

31 9. It is the responsibility of the collaborating physician to determine and document the
32 completion of at least a one-month period of time during which the advanced practice registered
33 nurse shall practice with the collaborating physician continuously present before practicing in a
34 setting where the collaborating physician is not continuously present. This limitation shall not apply
35 to collaborative arrangements of providers of population-based public health services as defined by
36 20 CSR 2150-5.100 as of April 30, 2008, nor to collaborative arrangements between a physician
37 and an advanced practice registered nurse, if the collaborative physician is new to a patient
38 population to which the collaborating advanced practice registered nurse, physician assistant, or
39 assistant physician is already familiar.

40 10. No agreement made under this section shall supersede current hospital licensing
41 regulations governing hospital medication orders under protocols or standing orders for the purpose
42 of delivering inpatient or emergency care within a hospital as defined in section 197.020 if such
43 protocols or standing orders have been approved by the hospital's medical staff and pharmaceutical
44 therapeutics committee.

45 11. No contract or other agreement shall require a physician to act as a collaborating
46 physician for an advanced practice registered nurse against the physician's will. A physician shall
47 have the right to refuse to act as a collaborating physician, without penalty, for a particular advanced
48 practice registered nurse. No contract or other agreement shall limit the collaborating physician's

1 ultimate authority over any protocols or standing orders or in the delegation of the physician's
2 authority to any advanced practice registered nurse, but this requirement shall not authorize a
3 physician in implementing such protocols, standing orders, or delegation to violate applicable
4 standards for safe medical practice established by hospital's medical staff.

5 12. No contract or other agreement shall require any advanced practice registered nurse to
6 serve as a collaborating advanced practice registered nurse for any collaborating physician against
7 the advanced practice registered nurse's will. An advanced practice registered nurse shall have the
8 right to refuse to collaborate, without penalty, with a particular physician.

9 334.735. 1. As used in sections 334.735 to 334.749, the following terms mean:

10 (1) "Applicant", any individual who seeks to become licensed as a physician assistant;

11 (2) "Certification" or "registration", a process by a certifying entity that grants recognition
12 to applicants meeting predetermined qualifications specified by such certifying entity;

13 (3) "Certifying entity", the nongovernmental agency or association which certifies or
14 registers individuals who have completed academic and training requirements;

15 (4) "Department", the department of insurance, financial institutions and professional
16 registration or a designated agency thereof;

17 (5) "License", a document issued to an applicant by the board acknowledging that the
18 applicant is entitled to practice as a physician assistant;

19 (6) "Physician assistant", a person who has graduated from a physician assistant program
20 accredited by the American Medical Association's Committee on Allied Health Education and
21 Accreditation or by its successor agency, who has passed the certifying examination administered by
22 the National Commission on Certification of Physician Assistants and has active certification by the
23 National Commission on Certification of Physician Assistants who provides health care services
24 delegated by a licensed physician. A person who has been employed as a physician assistant for
25 three years prior to August 28, 1989, who has passed the National Commission on Certification of
26 Physician Assistants examination, and has active certification of the National Commission on
27 Certification of Physician Assistants;

28 (7) "Recognition", the formal process of becoming a certifying entity as required by the
29 provisions of sections 334.735 to 334.749;

30 (8) "Supervision", control exercised over a physician assistant working with a supervising
31 physician and oversight of the activities of and accepting responsibility for the physician assistant's
32 delivery of care. The physician assistant shall only practice at a location where the physician
33 routinely provides patient care, except existing patients of the supervising physician in the patient's
34 home and correctional facilities. The supervising physician must be immediately available in
35 person or via telecommunication during the time the physician assistant is providing patient care.
36 Prior to commencing practice, the supervising physician and physician assistant shall attest on a
37 form provided by the board that the physician shall provide supervision appropriate to the physician
38 assistant's training and that the physician assistant shall not practice beyond the physician assistant's
39 training and experience. Appropriate supervision shall require the supervising physician to be
40 working within the same facility as the physician assistant for at least four hours within one calendar
41 day for every fourteen days on which the physician assistant provides patient care as described in
42 subsection 3 of this section. Only days in which the physician assistant provides patient care as
43 described in subsection 3 of this section shall be counted toward the fourteen-day period. The
44 requirement of appropriate supervision shall be applied so that no more than thirteen calendar days
45 in which a physician assistant provides patient care shall pass between the physician's four hours
46 working within the same facility. The board shall promulgate rules pursuant to chapter 536 for
47 documentation of joint review of the physician assistant activity by the supervising physician and
48 the physician assistant.

1 2. (1) A supervision agreement shall limit the physician assistant to practice only at
2 locations described in subdivision (8) of subsection 1 of this section, where the supervising
3 physician is no further than fifty miles by road using the most direct route available and where the
4 location is not so situated as to create an impediment to effective intervention and supervision of
5 patient care or adequate review of services.

6 (2) For a physician-physician assistant team working in a rural health clinic under the
7 federal Rural Health Clinic Services Act, P.L. 95-210, as amended, no supervision requirements in
8 addition to the minimum federal law shall be required.

9 3. The scope of practice of a physician assistant shall consist only of the following services
10 and procedures:

11 (1) Taking patient histories;

12 (2) Performing physical examinations of a patient;

13 (3) Performing or assisting in the performance of routine office laboratory and patient
14 screening procedures;

15 (4) Performing routine therapeutic procedures;

16 (5) Recording diagnostic impressions and evaluating situations calling for attention of a
17 physician to institute treatment procedures;

18 (6) Instructing and counseling patients regarding mental and physical health using
19 procedures reviewed and approved by a licensed physician;

20 (7) Assisting the supervising physician in institutional settings, including reviewing of
21 treatment plans, ordering of tests and diagnostic laboratory and radiological services, and ordering
22 of therapies, using procedures reviewed and approved by a licensed physician;

23 (8) Assisting in surgery;

24 (9) Performing such other tasks not prohibited by law under the supervision of a licensed
25 physician as the physician's assistant has been trained and is proficient to perform; and

26 (10) Physician assistants shall not perform or prescribe abortions.

27 4. Physician assistants shall not prescribe nor dispense any drug, medicine, device or
28 therapy unless pursuant to a physician supervision agreement in accordance with the law, nor
29 prescribe lenses, prisms or contact lenses for the aid, relief or correction of vision or the
30 measurement of visual power or visual efficiency of the human eye, nor administer or monitor
31 general or regional block anesthesia during diagnostic tests, surgery or obstetric procedures.
32 Prescribing and dispensing of drugs, medications, devices or therapies by a physician assistant shall
33 be pursuant to a physician assistant supervision agreement which is specific to the clinical
34 conditions treated by the supervising physician and the physician assistant shall be subject to the
35 following:

36 (1) A physician assistant shall only prescribe controlled substances in accordance with
37 section 334.747;

38 (2) The types of drugs, medications, devices or therapies prescribed or dispensed by a
39 physician assistant shall be consistent with the scopes of practice of the physician assistant and the
40 supervising physician;

41 (3) All prescriptions shall conform with state and federal laws and regulations and shall
42 include the name, address and telephone number of the physician assistant and the supervising
43 physician;

44 (4) A physician assistant, or advanced practice registered nurse as defined in section
45 335.016 may request, receive and sign for noncontrolled professional samples and may distribute
46 professional samples to patients;

47 (5) A physician assistant shall not prescribe any drugs, medicines, devices or therapies the
48 supervising physician is not qualified or authorized to prescribe; and

1 (6) A physician assistant may only dispense starter doses of medication to cover a period of
2 time for seventy-two hours or less.

3 5. A physician assistant shall clearly identify himself or herself as a physician assistant and
4 shall not use or permit to be used in the physician assistant's behalf the terms "doctor", "Dr." or
5 "doc" nor hold himself or herself out in any way to be a physician or surgeon. No physician
6 assistant shall practice or attempt to practice without physician supervision or in any location where
7 the supervising physician is not immediately available for consultation, assistance and intervention,
8 except as otherwise provided in this section, and in an emergency situation, nor shall any physician
9 assistant bill a patient independently or directly for any services or procedure by the physician
10 assistant; except that, nothing in this subsection shall be construed to prohibit a physician assistant
11 from enrolling with the department of social services as a MO HealthNet or Medicaid provider
12 while acting under a supervision agreement between the physician and physician assistant.

13 6. For purposes of this section, the licensing of physician assistants shall take place within
14 processes established by the state board of registration for the healing arts through rule and
15 regulation. The board of healing arts is authorized to establish rules pursuant to chapter 536
16 establishing licensing and renewal procedures, supervision, supervision agreements, fees, and
17 addressing such other matters as are necessary to protect the public and discipline the profession.
18 An application for licensing may be denied or the license of a physician assistant may be suspended
19 or revoked by the board in the same manner and for violation of the standards as set forth by section
20 334.100, or such other standards of conduct set by the board by rule or regulation. Persons licensed
21 pursuant to the provisions of chapter 335 shall not be required to be licensed as physician assistants.
22 All applicants for physician assistant licensure who complete a physician assistant training program
23 after January 1, 2008, shall have a master's degree from a physician assistant program.

24 7. "Physician assistant supervision agreement" means a written agreement, jointly agreed-
25 upon protocols or standing order between a supervising physician and a physician assistant, which
26 provides for the delegation of health care services from a supervising physician to a physician
27 assistant and the review of such services. The agreement shall contain at least the following
28 provisions:

29 (1) Complete names, home and business addresses, zip codes, telephone numbers, and state
30 license numbers of the supervising physician and the physician assistant;

31 (2) A list of all offices or locations where the physician routinely provides patient care, and
32 in which of such offices or locations the supervising physician has authorized the physician assistant
33 to practice;

34 (3) All specialty or board certifications of the supervising physician;

35 (4) The manner of supervision between the supervising physician and the physician
36 assistant, including how the supervising physician and the physician assistant shall:

37 (a) Attest on a form provided by the board that the physician shall provide supervision
38 appropriate to the physician assistant's training and experience and that the physician assistant shall
39 not practice beyond the scope of the physician assistant's training and experience nor the supervising
40 physician's capabilities and training; and

41 (b) Provide coverage during absence, incapacity, infirmity, or emergency by the supervising
42 physician;

43 (5) The duration of the supervision agreement between the supervising physician and
44 physician assistant; and

45 (6) A description of the time and manner of the supervising physician's review of the
46 physician assistant's delivery of health care services. Such description shall include provisions that
47 the supervising physician, or a designated supervising physician listed in the supervision agreement
48 review a minimum of ten percent of the charts of the physician assistant's delivery of health care

1 services every fourteen days.

2 8. When a physician assistant supervision agreement is utilized to provide health care
3 services for conditions other than acute self-limited or well-defined problems, the supervising
4 physician or other physician designated in the supervision agreement shall see the patient for
5 evaluation and approve or formulate the plan of treatment for new or significantly changed
6 conditions as soon as practical, but in no case more than two weeks after the patient has been seen
7 by the physician assistant.

8 9. At all times the physician is responsible for the oversight of the activities of, and accepts
9 responsibility for, health care services rendered by the physician assistant.

10 10. It is the responsibility of the supervising physician to determine and document the
11 completion of at least a one-month period of time during which the licensed physician assistant shall
12 practice with a supervising physician continuously present before practicing in a setting where a
13 supervising physician is not continuously present. This limitation shall not apply to supervision
14 agreements between a licensed physician assistant and a physician if the supervising physician is
15 new to a patient population to which the licensed physician assistant is already familiar.

16 11. No contract or other agreement shall require a physician to act as a supervising
17 physician for a physician assistant against the physician's will. A physician shall have the right to
18 refuse to act as a supervising physician, without penalty, for a particular physician assistant. No
19 contract or other agreement shall limit the supervising physician's ultimate authority over any
20 protocols or standing orders or in the delegation of the physician's authority to any physician
21 assistant, but this requirement shall not authorize a physician in implementing such protocols,
22 standing orders, or delegation to violate applicable standards for safe medical practice established
23 by the hospital's medical staff.

24 12. Physician assistants shall file with the board a copy of their supervising physician form.

25 13. No physician shall be designated to serve as supervising physician for more than three
26 full-time equivalent licensed physician assistants. This limitation shall not apply to physician
27 assistant agreements of hospital employees providing inpatient care service in hospitals as defined in
28 chapter 197.

29 334.1200. PURPOSE

30 The purpose of this compact is to facilitate interstate practice of physical therapy with the goal of
31 improving public access to physical therapy services. The practice of physical therapy occurs in the
32 state where the patient/client is located at the time of the patient/client encounter. The compact
33 preserves the regulatory authority of states to protect public health and safety through the current
34 system of state licensure.

35 This compact is designed to achieve the following objectives:

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

38 2. Enhance the states' ability to protect the public's health and safety;

39 3. Encourage the cooperation of member states in regulating multistate physical therapy
40 practice;

41 4. Support spouses of relocating military members;

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

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

46 334.1203. DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 17. "Physical therapy", "physical therapy practice", and "the practice of physical therapy"
37 mean the care and services provided by or under the direction and supervision of a licensed physical
38 therapist.

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

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

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

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

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

1 334.1206. STATE PARTICIPATION IN THE COMPACT

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

- 3 1. Participate fully in the commission's data system, including using the commission's
4 unique identifier as defined in rules;
5 2. Have a mechanism in place for receiving and investigating complaints about licensees;
6 3. Notify the commission, in compliance with the terms of the compact and rules, of any
7 adverse action or the availability of investigative information regarding a licensee;
8 4. Fully implement a criminal background check requirement, within a time frame
9 established by rule, by receiving the results of the Federal Bureau of Investigation record search on
10 criminal background checks and use the results in making licensure decisions in accordance with
11 section 334.1206.B.;
12 5. Comply with the rules of the commission;
13 6. Utilize a recognized national examination as a requirement for licensure pursuant to the
14 rules of the commission; and
15 7. Have continuing competence requirements as a condition for license renewal.
16 B. Upon adoption of sections 334.1200 to 334.1233, the member state shall have the
17 authority to obtain biometric-based information from each physical therapy licensure applicant and
18 submit this information to the Federal Bureau of Investigation for a criminal background check in
19 accordance with 28 U.S.C. Section 534 and 42 U.S.C. Section 14616.
20 C. A member state shall grant the compact privilege to a licensee holding a valid
21 unencumbered license in another member state in accordance with the terms of the compact and
22 rules.
23 D. Member states may charge a fee for granting a compact privilege.

24 334.1209. COMPACT PRIVILEGE

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

- 27 1. Hold a license in the home state;
28 2. Have no encumbrance on any state license;
29 3. Be eligible for a compact privilege in any member state in accordance with section
30 334.1209D, G and H;
31 4. Have not had any adverse action against any license or compact privilege within the
32 previous 2 years;
33 5. Notify the commission that the licensee is seeking the compact privilege within a remote
34 state(s);
35 6. Pay any applicable fees, including any state fee, for the compact privilege;
36 7. Meet any jurisprudence requirements established by the remote state(s) in which the
37 licensee is seeking a compact privilege; and
38 8. Report to the commission adverse action taken by any nonmember state within thirty
39 days from the date the adverse action is taken.

40 B. The compact privilege is valid until the expiration date of the home license. The licensee
41 must comply with the requirements of section 334.1209.A. to maintain the compact privilege in the
42 remote state.

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

45 D. A licensee providing physical therapy in a remote state is subject to that state's
46 regulatory authority. A remote state may, in accordance with due process and that state's laws,
47 remove a licensee's compact privilege in the remote state for a specific period of time, impose fines,
48 and/or take any other necessary actions to protect the health and safety of its citizens. The licensee

1 is not eligible for a compact privilege in any state until the specific time for removal has passed and
2 all fines are paid.

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

5 1. The home state license is no longer encumbered; and

6 2. Two years have elapsed from the date of the adverse action.

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

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

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

12 2. All fines have been paid; and

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

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

16 334.1212. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

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

19 A. Home of record;

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

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

22 334.1215. ADVERSE ACTIONS

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

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

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

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

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

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

39 2. Issue subpoenas for both hearings and investigations that require the attendance and
40 testimony of witnesses, and the production of evidence. Subpoenas issued by a physical therapy
41 licensing board in a party state for the attendance and testimony of witnesses, and/or the production
42 of evidence from another party state, shall be enforced in the latter state by any court of competent
43 jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in
44 proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses,
45 mileage, and other fees required by the service statutes of the state where the witnesses and/or
46 evidence are located; and

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

1 F. Joint Investigations

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

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

7 334.1218. ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT
8 COMMISSION.

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

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

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

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

17 B. Membership, Voting, and Meetings

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

20 2. The delegate shall be a current member of the licensing board, who is a physical
21 therapist, physical therapist assistant, public member, or the board administrator.

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

24 4. The member state board shall fill any vacancy occurring in the commission.

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

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

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

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

34 1. Establish the fiscal year of the commission;

35 2. Establish bylaws;

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

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

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

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

45 7. Purchase and maintain insurance and bonds;

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

48 9. Hire employees, elect or appoint officers, fix compensation, define duties, grant such

1 individuals appropriate authority to carry out the purposes of the compact, and to establish the
 2 commission's personnel policies and programs relating to conflicts of interest, qualifications of
 3 personnel, and other related personnel matters;

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

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

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

12 13. Establish a budget and make expenditures;

13 14. Borrow money;

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

17 16. Provide and receive information from, and cooperate with, law enforcement agencies;

18 17. Establish and elect an executive board; and

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

21 D. The Executive Board

22 The executive board shall have the power to act on behalf of the commission according to
 23 the terms of this compact.

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

25 a. Seven voting members who are elected by the commission from the current membership
 26 of the commission;

27 b. One ex officio, nonvoting member from the recognized national physical therapy
 28 professional association; and

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

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

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

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

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

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

38 b. Ensure compact administration services are appropriately provided, contractual or
 39 otherwise;

40 c. Prepare and recommend the budget;

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

42 e. Monitor compact compliance of member states and provide compliance reports to the
 43 commission;

44 f. Establish additional committees as necessary; and

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

46 E. Meetings of the Commission

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

1 2. The commission or the executive board or other committees of the commission may
 2 convene in a closed, nonpublic meeting if the commission or executive board or other committees
 3 of the commission must discuss:

- 4 a. Noncompliance of a member state with its obligations under the compact;
 5 b. The employment, compensation, discipline or other matters, practices or procedures
 6 related to specific employees or other matters related to the commission's internal personnel
 7 practices and procedures;
 8 c. Current, threatened, or reasonably anticipated litigation;
 9 d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;
 10 e. Accusing any person of a crime or formally censuring any person;
 11 f. Disclosure of trade secrets or commercial or financial information that is privileged or
 12 confidential;
 13 g. Disclosure of information of a personal nature where disclosure would constitute a
 14 clearly unwarranted invasion of personal privacy;
 15 h. Disclosure of investigative records compiled for law enforcement purposes;
 16 i. Disclosure of information related to any investigative reports prepared by or on behalf of
 17 or for use of the commission or other committee charged with responsibility of investigation or
 18 determination of compliance issues pursuant to the compact; or
 19 j. Matters specifically exempted from disclosure by federal or member state statute.

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

23 4. The commission shall keep minutes that fully and clearly describe all matters discussed in
 24 a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore,
 25 including a description of the views expressed. All documents considered in connection with an
 26 action shall be identified in such minutes. All minutes and documents of a closed meeting shall
 27 remain under seal, subject to release by a majority vote of the commission or order of a court of
 28 competent jurisdiction.

29 F. Financing of the Commission

30 1. The commission shall pay, or provide for the payment of, the reasonable expenses of its
 31 establishment, organization, and ongoing activities.

32 2. The commission may accept any and all appropriate revenue sources, donations, and
 33 grants of money, equipment, supplies, materials, and services.

34 3. The commission may levy on and collect an annual assessment from each member state
 35 or impose fees on other parties to cover the cost of the operations and activities of the commission
 36 and its staff, which must be in a total amount sufficient to cover its annual budget as approved each
 37 year for which revenue is not provided by other sources. The aggregate annual assessment amount
 38 shall be allocated based upon a formula to be determined by the commission, which shall
 39 promulgate a rule binding upon all member states.

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

43 5. The commission shall keep accurate accounts of all receipts and disbursements. The
 44 receipts and disbursements of the commission shall be subject to the audit and accounting
 45 procedures established under its bylaws. However, all receipts and disbursements of funds handled
 46 by the commission shall be audited yearly by a certified or licensed public accountant, and the
 47 report of the audit shall be included in and become part of the annual report of the commission.

48 G. Qualified Immunity, Defense, and Indemnification

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

9 2. The commission shall defend any member, officer, executive director, employee or
10 representative of the commission in any civil action seeking to impose liability arising out of any
11 actual or alleged act, error, or omission that occurred within the scope of commission employment,
12 duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis
13 for believing occurred within the scope of commission employment, duties, or responsibilities;
14 provided that nothing herein shall be construed to prohibit that person from retaining his or her own
15 counsel; and provided further, that the actual or alleged act, error, or omission did not result from
16 that person's intentional or willful or wanton misconduct.

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

24 334.1221. DATA SYSTEM

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

28 B. Notwithstanding any other provision of state law to the contrary, a member state shall
29 submit a uniform data set to the data system on all individuals to whom this compact is applicable as
30 required by the rules of the commission, including:

31 1. Identifying information;

32 2. Licensure data;

33 3. Adverse actions against a license or compact privilege;

34 4. Nonconfidential information related to alternative program participation;

35 5. Any denial of application for licensure, and the reason(s) for such denial; and

36 6. Other information that may facilitate the administration of this compact, as determined by
37 the rules of the commission.

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

40 D. The commission shall promptly notify all member states of any adverse action taken
41 against a licensee or an individual applying for a license. Adverse action information pertaining to a
42 licensee in any member state will be available to any other member state.

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

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

48 334.1224. RULEMAKING

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

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

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

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

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

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

15 E. The notice of proposed rulemaking shall include:

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

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

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

20 4. The manner in which interested persons may submit notice to the commission of their
21 intention to attend the public hearing and any written comments.

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

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

26 1. At least twenty-five persons;

27 2. A state or federal governmental subdivision or agency; or

28 3. An association having at least twenty-five members.

29 H. If a hearing is held on the proposed rule or amendment, the commission shall publish the
30 place, time, and date of the scheduled public hearing. If the hearing is held via electronic means,
31 the commission shall publish the mechanism for access to the electronic hearing.

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

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

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

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

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

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

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

48 L. Upon determination that an emergency exists, the commission may consider and adopt an

1 emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual
 2 rulemaking procedures provided in the compact and in this section shall be retroactively applied to
 3 the rule as soon as reasonably possible, in no event later than ninety days after the effective date of
 4 the rule. For the purposes of this provision, an emergency rule is one that must be adopted
 5 immediately in order to:

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

11 M. The commission or an authorized committee of the commission may direct revisions to a
 12 previously adopted rule or amendment for purposes of correcting typographical errors, errors in
 13 format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted
 14 on the website of the commission. The revision shall be subject to challenge by any person for a
 15 period of thirty days after posting. The revision may be challenged only on grounds that the
 16 revision results in a material change to a rule. A challenge shall be made in writing, and delivered
 17 to the chair of the commission prior to the end of the notice period. If no challenge is made, the
 18 revision will take effect without further action. If the revision is challenged, the revision may not
 19 take effect without the approval of the commission.

20 334.1227. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

21 A. Oversight

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

26 2. All courts shall take judicial notice of the compact and the rules in any judicial or
 27 administrative proceeding in a member state pertaining to the subject matter of this compact which
 28 may affect the powers, responsibilities or actions of the commission.

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

33 B. Default, Technical Assistance, and Termination

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

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

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

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

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

1 4. A state that has been terminated is responsible for all assessments, obligations, and
2 liabilities incurred through the effective date of termination, including obligations that extend
3 beyond the effective date of termination.

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

7 6. The defaulting state may appeal the action of the commission by petitioning the United
8 States District Court for the District of Columbia or the federal district where the commission has its
9 principal offices. The prevailing member shall be awarded all costs of such litigation, including
10 reasonable attorney's fees.

11 C. Dispute Resolution

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

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

16 D. Enforcement

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

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

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

27 334.1230. DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR
28 PHYSICAL THERAPY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND
29 AMENDMENT

30 A. The compact shall come into effect on the date on which the compact statute is enacted
31 into law in the tenth member state. The provisions, which become effective at that time, shall be
32 limited to the powers granted to the commission relating to assembly and the promulgation of rules.
33 Thereafter, the commission shall meet and exercise rulemaking powers necessary to the
34 implementation and administration of the compact.

35 B. Any state that joins the compact subsequent to the commission's initial adoption of the
36 rules shall be subject to the rules as they exist on the date on which the compact becomes law in that
37 state. Any rule that has been previously adopted by the commission shall have the full force and
38 effect of law on the day the compact becomes law in that state.

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

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

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

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

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

4 334.1233. CONSTRUCTION AND SEVERABILITY

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

13 335.203. 1. There is hereby established the "Nursing Education Incentive Program" within
 14 the [department of higher education] state board of nursing.

15 2. Subject to appropriation and board disbursement, grants shall be awarded through the
 16 nursing education incentive program to eligible institutions of higher education based on criteria
 17 jointly determined by the board and the department. Grant award amounts shall not exceed one
 18 hundred fifty thousand dollars. No campus shall receive more than one grant per year.

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

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

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

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

28 5. The [department] board shall be the administrative agency responsible for
 29 implementation of the program established under sections 335.200 to 335.203, and shall promulgate
 30 reasonable rules for the exercise of its functions and the effectuation of the purposes of sections
 31 335.200 to 335.203. The [department] board shall, by rule, prescribe the form, time, and method of
 32 filing applications and shall supervise the processing of such applications.

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

40 335.360. 1. The party states find that:

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

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

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

48 (4) New practice modalities and technology make compliance with individual state nurse

1 licensure laws difficult and complex;

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

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

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

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

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

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

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

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

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

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

19 335.365. As used in this compact, the following terms shall mean:

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

26 (2) "Alternative program", a nondisciplinary monitoring program approved by a licensing
27 board;

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

32 (4) "Current significant investigative information":

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

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

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

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

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

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

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

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

1 laws;

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

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

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

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

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

13 335.370. 1. A multistate license to practice registered or licensed practical or vocational
 14 nursing issued by a home state to a resident in that state shall be recognized by each party state as
 15 authorizing a nurse to practice as a registered nurse, "RN", or as a licensed practical or vocational
 16 nurse, "LPN" or "VN", under a multistate licensure privilege, in each party state.

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

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

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

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

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

32 (3) Has, if a graduate of a foreign prelicensure education program not taught in English or if
 33 English is not the individual's native language, successfully passed an English proficiency
 34 examination that includes the components of reading, speaking, writing, and listening;

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

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

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

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

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

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

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

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

2 4. All party states shall be authorized, in accordance with existing state due process law, to
3 take adverse action against a nurse's multistate licensure privilege such as revocation, suspension,
4 probation, or any other action that affects a nurse's authorization to practice under a multistate
5 licensure privilege, including cease and desist actions. If a party state takes such action, it shall
6 promptly notify the administrator of the coordinated licensure information system. The
7 administrator of the coordinated licensure information system shall promptly notify the home state
8 of any such actions by remote states.

9 5. A nurse practicing in a party state shall comply with the state practice laws of the state in
10 which the client is located at the time service is provided. The practice of nursing is not limited to
11 patient care, but shall include all nursing practice as defined by the state practice laws of the party
12 state in which the client is located. The practice of nursing in a party state under a multistate
13 licensure privilege shall subject a nurse to the jurisdiction of the licensing board, the courts, and the
14 laws of the party state in which the client is located at the time service is provided.

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

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

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

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

31 335.375. 1. Upon application for a multistate license, the licensing board in the issuing
32 party state shall ascertain, through the coordinated licensure information system, whether the
33 applicant has ever held, or is the holder of, a license issued by any other state, whether there are any
34 encumbrances on any license or multistate licensure privilege held by the applicant, whether any
35 adverse action has been taken against any license or multistate licensure privilege held by the
36 applicant, and whether the applicant is currently participating in an alternative program.

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

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

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

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

46 4. If a nurse changes primary state of residence by moving from a party state to a non-party
47 state, the multistate license issued by the prior home state shall convert to a single-state license,
48 valid only in the former home state.

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

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

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

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

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

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

18 (4) Issue subpoenas for both hearings and investigations that require the attendance and
19 testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing
20 board in a party state for the attendance and testimony of witnesses or the production of evidence
21 from another party state shall be enforced in the latter state by any court of competent jurisdiction
22 according to the practice and procedure of that court applicable to subpoenas issued in proceedings
23 pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and
24 other fees required by the service statutes of the state in which the witnesses or evidence are located;

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

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

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

34 2. If adverse action is taken by the home state against a nurse's multistate license, the nurse's
35 multistate licensure privilege to practice in all other party states shall be deactivated until all
36 encumbrances have been removed from the multistate license. All home state disciplinary orders
37 that impose adverse action against a nurse's multistate license shall include a statement that the
38 nurse's multistate licensure privilege is deactivated in all party states during the pendency of the
39 order.

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

44 335.385. 1. All party states shall participate in a coordinated licensure information system
45 of all licensed registered nurses, "RNs", and licensed practical or vocational nurses, "LPNs" or
46 "VNs". This system shall include information on the licensure and disciplinary history of each
47 nurse, as submitted by party states, to assist in the coordination of nurse licensure and enforcement
48 efforts.

1 2. The commission, in consultation with the administrator of the coordinated licensure
2 information system, shall formulate necessary and proper procedures for the identification,
3 collection, and exchange of information under this compact.

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

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

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

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

20 7. Any information contributed to the coordinated licensure information system that is
21 subsequently required to be expunged by the laws of the party state contributing that information
22 shall also be expunged from the coordinated licensure information system.

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

25 (1) Identifying information;

26 (2) Licensure data;

27 (3) Information related to alternative program participation; and

28 (4) Other information that may facilitate the administration of this compact, as determined
29 by commission rules.

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

32 335.390. 1. The party states hereby create and establish a joint public entity known as the
33 "Interstate Commission of Nurse Licensure Compact Administrators".

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

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

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

40 2. (1) Each party state shall have and be limited to one administrator. The head of the state
41 licensing board or designee shall be the administrator of this compact for each party state. Any
42 administrator may be removed or suspended from office as provided by the law of the state from
43 which the administrator is appointed. Any vacancy occurring in the commission shall be filled in
44 accordance with the laws of the party state in which the vacancy exists.

45 (2) Each administrator shall be entitled to one vote with regard to the promulgation of rules
46 and creation of bylaws and shall otherwise have an opportunity to participate in the business and
47 affairs of the commission. An administrator shall vote in person or by such other means as provided
48 in the bylaws. The bylaws may provide for an administrator's participation in meetings by

1 telephone or other means of communication.

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

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

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

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

9 (b) The employment, compensation, discipline, or other personnel matters, practices, or
 10 procedures related to specific employees, or other matters related to the commission's internal
 11 personnel practices and procedures;

12 (c) Current, threatened, or reasonably anticipated litigation;

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

14 (e) Accusing any person of a crime or formally censuring any person;

15 (f) Disclosure of trade secrets or commercial or financial information that is privileged or
 16 confidential;

17 (g) Disclosure of information of a personal nature where disclosure would constitute a
 18 clearly unwarranted invasion of personal privacy;

19 (h) Disclosure of investigatory records compiled for law enforcement purposes;

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

22 (j) Matters specifically exempted from disclosure by federal or state statute.

23 (6) If a meeting, or portion of a meeting, is closed pursuant to subdivision (5) of this
 24 subsection, the commission's legal counsel or designee shall certify that the meeting shall be closed
 25 and shall reference each relevant exempting provision. The commission shall keep minutes that
 26 fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate
 27 summary of actions taken, and the reasons therefor, including a description of the views expressed.
 28 All documents considered in connection with an action shall be identified in such minutes. All
 29 minutes and documents of a closed meeting shall remain under seal, subject to release by a majority
 30 vote of the commission or order of a court of competent jurisdiction.

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

34 (1) Establishing the fiscal year of the commission;

35 (2) Providing reasonable standards and procedures:

36 (a) For the establishment and meetings of other committees; and

37 (b) Governing any general or specific delegation of any authority or function of the
 38 commission;

39 (3) Providing reasonable procedures for calling and conducting meetings of the
 40 commission, ensuring reasonable advance notice of all meetings and providing an opportunity for
 41 attendance of such meetings by interested parties, with enumerated exceptions designed to protect
 42 the public's interest, the privacy of individuals, and proprietary information, including trade secrets.
 43 The commission may meet in closed session only after a majority of the administrators vote to close
 44 a meeting in whole or in part. As soon as practicable, the commission must make public a copy of
 45 the vote to close the meeting revealing the vote of each administrator, with no proxy votes allowed;

46 (4) Establishing the titles, duties, and authority and reasonable procedures for the election of
 47 the officers of the commission;

48 (5) Providing reasonable standards and procedures for the establishment of the personnel

1 policies and programs of the commission. Notwithstanding any civil service or other similar laws
2 of any party state, the bylaws shall exclusively govern the personnel policies and programs of the
3 commission; and

4 (6) Providing a mechanism for winding up the operations of the commission and the
5 equitable disposition of any surplus funds that may exist after the termination of this compact after
6 the payment or reserving of all of its debts and obligations.

7 4. The commission shall publish its bylaws and rules, and any amendments thereto, in a
8 convenient form on the website of the commission.

9 5. The commission shall maintain its financial records in accordance with the bylaws.

10 6. The commission shall meet and take such actions as are consistent with the provisions of
11 this compact and the bylaws.

12 7. The commission shall have the following powers:

13 (1) To promulgate uniform rules to facilitate and coordinate implementation and
14 administration of this compact. The rules shall have the force and effect of law and shall be binding
15 in all party states;

16 (2) To bring and prosecute legal proceedings or actions in the name of the commission;
17 provided that, the standing of any licensing board to sue or be sued under applicable law shall not be
18 affected;

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

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

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

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

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

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

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

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

38 (11) To borrow money;

39 (12) To appoint committees, including advisory committees comprised of administrators,
40 state nursing regulators, state legislators or their representatives, consumer representatives, and
41 other such interested persons;

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

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

45 (15) To perform such other functions as may be necessary or appropriate to achieve the
46 purposes of this compact consistent with the state regulation of nurse licensure and practice.

47 8. (1) The commission shall pay, or provide for the payment of, the reasonable expenses of
48 its establishment, organization, and ongoing activities.

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

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

8 (4) The commission shall keep accurate accounts of all receipts and disbursements. The
9 receipts and disbursements of the commission shall be subject to the audit and accounting
10 procedures established under its bylaws. However, all receipts and disbursements of funds handled
11 by the commission shall be audited yearly by a certified or licensed public accountant, and the
12 report of the audit shall be included in and become part of the annual report of the commission.

13 9. (1) The administrators, officers, executive director, employees, and representatives of the
14 commission shall be immune from suit and liability, either personally or in their official capacity,
15 for any claim for damage to or loss of property, personal injury, or other civil liability caused by or
16 arising out of any actual or alleged act, error, or omission that occurred, or that the person against
17 whom the claim is made had a reasonable basis for believing occurred, within the scope of
18 commission employment, duties, or responsibilities; provided that, nothing in this paragraph shall
19 be construed to protect any such person from suit or liability for any damage, loss, injury, or
20 liability caused by the intentional, willful, or wanton misconduct of that person.

21 (2) The commission shall defend any administrator, officer, executive director, employee, or
22 representative of the commission in any civil action seeking to impose liability arising out of any
23 actual or alleged act, error, or omission that occurred within the scope of commission employment,
24 duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis
25 for believing occurred within the scope of commission employment, duties, or responsibilities;
26 provided that, nothing herein shall be construed to prohibit that person from retaining his or her own
27 counsel; and provided further that the actual or alleged act, error, or omission did not result from
28 that person's intentional, willful, or wanton misconduct.

29 (3) The commission shall indemnify and hold harmless any administrator, officer, executive
30 director, employee, or representative of the commission for the amount of any settlement or
31 judgment obtained against that person arising out of any actual or alleged act, error, or omission that
32 occurred within the scope of commission employment, duties, or responsibilities, or that such
33 person had a reasonable basis for believing occurred within the scope of commission employment,
34 duties, or responsibilities; provided that, the actual or alleged act, error, or omission did not result
35 from the intentional, willful, or wanton misconduct of that person.

36 335.395. 1. The commission shall exercise its rulemaking powers pursuant to the criteria
37 set forth in this section and the rules adopted thereunder. Rules and amendments shall become
38 binding as of the date specified in each rule or amendment and shall have the same force and effect
39 as provisions of this compact.

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

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

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

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

48 4. The notice of proposed rulemaking shall include:

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

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

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

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

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

9 6. The commission shall grant an opportunity for a public hearing before it adopts a rule or
10 amendment.

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

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

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

17 8. If no one appears at the public hearing, the commission may proceed with promulgation
18 of the proposed rule.

19 9. Following the scheduled hearing date, or by the close of business on the scheduled
20 hearing date if the hearing was not held, the commission shall consider all written and oral
21 comments received.

22 10. The commission shall, by majority vote of all administrators, take final action on the
23 proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking
24 record and the full text of the rule.

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

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

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

33 (3) Meet a deadline for the promulgation of an administrative rule that is required by federal
34 law or rule.

35 12. The commission may direct revisions to a previously adopted rule or amendment for
36 purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical
37 errors. Public notice of any revisions shall be posted on the website of the commission. The
38 revision shall be subject to challenge by any person for a period of thirty days after posting. The
39 revision shall be challenged only on grounds that the revision results in a material change to a rule.
40 A challenge shall be made in writing and delivered to the commission prior to the end of the notice
41 period. If no challenge is made, the revision shall take effect without further action. If the revision
42 is challenged, the revision shall not take effect without the approval of the commission.

43 335.400. 1. (1) Each party state shall enforce this compact and take all actions necessary
44 and appropriate to effectuate this compact's purposes and intent.

45 (2) The commission shall be entitled to receive service of process in any proceeding that
46 may affect the powers, responsibilities, or actions of the commission, and shall have standing to
47 intervene in such a proceeding for all purposes. Failure to provide service of process in such
48 proceeding to the commission shall render a judgment or order void as to the commission, this

1 compact, or promulgated rules.

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

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

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

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

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

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

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

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

27 3. (1) Upon request by a party state, the commission shall attempt to resolve disputes
28 related to the compact that arise among party states and between party and non-party states.

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

31 (3) In the event the commission cannot resolve disputes among party states arising under
32 this compact:

33 (a) The party states shall submit the issues in dispute to an arbitration panel, which shall be
34 comprised of individuals appointed by the compact administrator in each of the affected party states
35 and an individual mutually agreed upon by the compact administrators of all the party states
36 involved in the dispute.

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

38 4. (1) The commission, in the reasonable exercise of its discretion, shall enforce the
39 provisions and rules of this compact.

40 (2) By majority vote, the commission may initiate legal action in the United States District
41 Court for the District of Columbia or the federal district in which the commission has its principal
42 offices against a party state that is in default to enforce compliance with the provisions of this
43 compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief
44 and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded
45 all costs of such litigation, including reasonable attorneys' fees.

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

48 335.405. 1. This compact shall become effective and binding on the earlier of the date of

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

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

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

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

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

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

20 7. Representatives of non-party states to this compact shall be invited to participate in the
21 activities of the commission on a nonvoting basis prior to the adoption of this compact by all states.

22 335.410. This compact shall be liberally construed so as to effectuate the purposes thereof.
23 The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of
24 this compact is declared to be contrary to the constitution of any party state or of the United States
25 or the applicability thereof to any government, agency, person, or circumstance is held invalid, the
26 validity of the remainder of this compact and the applicability thereof to any government, agency,
27 person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the
28 constitution of any party state, this compact shall remain in full force and effect as to the remaining
29 party states and in full force and effect as to the party state affected as to all severable matters.

30 335.415. 1. The term "head of the nurse licensing board" as referred to in section 335.390
31 of this compact shall mean the executive director of the Missouri state board of nursing.

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

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

35
36 336.020. It shall be unlawful for any person to practice, to attempt to practice, or to offer to
37 practice optometry, or to be employed by any person, corporation, partnership, association, or other
38 entity that practice or attempts to practice without a license as an optometrist issued by the board.
39 Nothing in this section shall be construed to prohibit a person licensed or registered under chapter
40 334 whose license is in good standing from acting within the scope of his or her practice or a person
41 licensed as an optometrist in any state to serve as an expert witness in a civil, criminal, or
42 administrative proceeding or optometry students in any accredited optometry school from training
43 in the practice of optometry under the direct supervision of a physician licensed under chapter 334
44 or an optometrist licensed under chapter 336.

45 338.202. 1. Notwithstanding any other provision of law, unless the prescriber has specified
46 on the prescription that dispensing a prescription for a maintenance medication in an initial amount
47 followed by periodic refills is medically necessary, a pharmacist may exercise his or her
48 professional judgment to dispense varying quantities of maintenance medication per fill up to the

1 total number of dosage units as authorized by the prescriber on the original prescription, including
2 any refills. Dispensing of the maintenance medication based on refills authorized by the physician
3 on the prescription shall be limited to no more than a ninety-day supply of the medication, and the
4 maintenance medication shall have been previously prescribed to the patient for at least a three-
5 month period.

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

9 376.1237. 1. Each health carrier or health benefit plan that offers or issues health benefit
10 plans which are delivered, issued for delivery, continued, or renewed in this state on or after January
11 1, 2014, and that provides coverage for prescription eye drops shall provide coverage for the
12 refilling of an eye drop prescription prior to the last day of the prescribed dosage period without
13 regard to a coverage restriction for early refill of prescription renewals as long as the prescribing
14 health care provider authorizes such early refill, and the health carrier or the health benefit plan is
15 notified.

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

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

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

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

27 621.280. 1. For any new board or commission created after July 1, 2016, and charged with
28 regulating or licensing an occupation or profession, those practitioners actively engaged in the
29 newly regulated occupation or profession for at least one year prior to the effective date of the
30 regulatory statute shall have a property right in their continued legal ability to engage in their
31 occupation or profession.

32 2. Any decision of a newly created board or commission to refuse licensure to a preexisting
33 practitioner shall be in writing, shall inform the preexisting practitioner of the specific reasons for
34 the denial, and shall inform the preexisting practitioner of their right to appeal before a neutral
35 decision-maker at the administrative hearing commission. Any preexisting practitioner denied
36 licensure shall have the right to file an appeal to the administrative hearing commission on their
37 license denial within thirty days after the decision of the newly created board or commission. If the
38 preexisting practitioner does not timely appeal, their right to continue practicing the occupation or
39 profession shall extinguish immediately. In the event of a timely appeal, the preexisting
40 practitioner's right to practice their occupation or profession shall continue until a final decision of
41 the administrative hearing commission. The burden of proof in any hearing under this section shall
42 be on the new board or commission to show that the preexisting practitioner does not meet the
43 requirements of the new regulatory regime.

44 630.175. 1. No person admitted on a voluntary or involuntary basis to any mental health
45 facility or mental health program in which people are civilly detained pursuant to chapter 632 and
46 no patient, resident or client of a residential facility or day program operated, funded or licensed by
47 the department shall be subject to physical or chemical restraint, isolation or seclusion unless it is
48 determined by the head of the facility, the attending licensed physician, or in the circumstances

1 specifically set forth in this section, by an advanced practice registered nurse or physician assistant
2 in a collaborative practice arrangement with the attending licensed physician that the chosen
3 intervention is imminently necessary to protect the health and safety of the patient, resident, client
4 or others and that it provides the least restrictive environment. An advanced practice registered
5 nurse or physician assistant in a collaborative practice arrangement with the attending licensed
6 physician may make a determination that the chosen intervention is necessary for patients, residents,
7 or clients of facilities or programs operated by the department, in hospitals as defined in section
8 197.020 that only provide psychiatric care and in dedicated psychiatric units of general acute care
9 hospitals as hospitals are defined in section 197.020. Any determination made by the advanced
10 practice registered nurse or physician assistant shall be documented as required in subsection 2 of
11 this section and reviewed in person by the attending licensed physician if the episode of restraint is
12 to extend beyond:

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

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

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

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

20 2. Every use of physical or chemical restraint, isolation or seclusion and the reasons therefor
21 shall be made a part of the clinical record of the patient, resident or client under the signature of the
22 head of the facility, or the attending licensed physician, or the advanced practice registered nurse or
23 physician assistant in a collaborative practice arrangement with the attending licensed physician.

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

27 4. The use of security escort devices, including devices designed to restrict physical
28 movement, which are used to maintain safety and security and to prevent escape during transport
29 outside of a facility shall not be considered physical restraint within the meaning of this section.
30 Individuals who have been civilly detained under sections 632.300 to 632.475 may be placed in
31 security escort devices when transported outside of the facility if it is determined by the head of the
32 facility, or the attending licensed physician, or the advanced practice registered nurse or physician
33 assistant in a collaborative practice arrangement with the attending licensed physician that the use of
34 security escort devices is necessary to protect the health and safety of the patient, resident, client, or
35 other persons or is necessary to prevent escape. Individuals who have been civilly detained under
36 sections 632.480 to 632.513 or committed under chapter 552 shall be placed in security escort
37 devices when transported outside of the facility unless it is determined by the head of the facility, or
38 the attending licensed physician, or the advanced practice registered nurse or physician assistant in a
39 collaborative practice arrangement with the attending licensed physician that security escort devices
40 are not necessary to protect the health and safety of the patient, resident, client, or other persons or
41 is not necessary to prevent escape.

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

45 6. Orders issued under this section by the advanced practice registered nurse or physician
46 assistant in a collaborative practice arrangement with the attending licensed physician shall be
47 reviewed in person by the attending licensed physician of the facility within twenty-four hours or
48 the next regular working day of the order being issued, and such review shall be documented in the

1 clinical record of the patient, resident, or client.

2 7. For purposes of this subsection, "division" shall mean the division of developmental
3 disabilities. Restraint or seclusion shall not be used in habilitation centers or community programs
4 that serve persons with developmental disabilities that are operated or funded by the division unless
5 such procedure is part of an emergency intervention system approved by the division and is
6 identified in such person's individual support plan. Direct-care staff that serve persons with
7 developmental disabilities in habilitation centers or community programs operated or funded by the
8 division shall be trained in an emergency intervention system approved by the division when such
9 emergency intervention system is identified in a consumer's individual support plan."; and

10 [335.300. 1. The party states find that:

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

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

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

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

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

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

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

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

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

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

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

36 [335.305. As used in this compact, the following terms shall mean:

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

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

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

44 (4) "Current significant investigative information":

45 (a) Investigative information that a licensing board, after a preliminary
46 inquiry that includes notification and an opportunity for the nurse to respond if
47 required by state law, has reason to believe is not groundless and, if proved true,
48

1 would indicate more than a minor infraction; or

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

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

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

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

13 (8) "Multistate licensing privilege", current, official authority from a remote
14 state permitting the practice of nursing as either a registered nurse or a licensed
15 practical/vocational nurse in such party state. All party states have the authority, in
16 accordance with existing state due process law, to take actions against the nurse's
17 privilege such as: revocation, suspension, probation, or any other action that affects
18 a nurse's authorization to practice;

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

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

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

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

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

26 (12) "Remote state action":

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

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

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

35 (14) "State practice laws", those individual party's state laws and regulations
36 that govern the practice of nursing, define the scope of nursing practice, and create
37 the methods and grounds for imposing discipline. State practice laws does not
38 include the initial qualifications for licensure or requirements necessary to obtain and
39 retain a license, except for qualifications or requirements of the home state.]

40
41 [335.310. 1. A license to practice registered nursing issued by a home state
42 to a resident in that state will be recognized by each party state as authorizing a
43 multistate licensure privilege to practice as a registered nurse in such party state. A
44 license to practice licensed practical/vocational nursing issued by a home state to a
45 resident in that state will be recognized by each party state as authorizing a multistate
46 licensure privilege to practice as a licensed practical/vocational nurse in such party
47 state. In order to obtain or retain a license, an applicant must meet the home state's
48 qualifications for licensure and license renewal as well as all other applicable state

1 laws.

2 2. Party states may, in accordance with state due process laws, limit or
3 revoke the multistate licensure privilege of any nurse to practice in their state and
4 may take any other actions under their applicable state laws necessary to protect the
5 health and safety of their citizens. If a party state takes such action, it shall promptly
6 notify the administrator of the coordinated licensure information system. The
7 administrator of the coordinated licensure information system shall promptly notify
8 the home state of any such actions by remote states.

9 3. Every nurse practicing in a party state must comply with the state practice
10 laws of the state in which the patient is located at the time care is rendered. In
11 addition, the practice of nursing is not limited to patient care, but shall include all
12 nursing practice as defined by the state practice laws of a party state. The practice of
13 nursing will subject a nurse to the jurisdiction of the nurse licensing board and the
14 courts, as well as the laws, in that party state.

15 4. This compact does not affect additional requirements imposed by states for
16 advanced practice registered nursing. However, a multistate licensure privilege to
17 practice registered nursing granted by a party state shall be recognized by other party
18 states as a license to practice registered nursing if one is required by state law as a
19 precondition for qualifying for advanced practice registered nurse authorization.

20 5. Individuals not residing in a party state shall continue to be able to apply
21 for nurse licensure as provided for under the laws of each party state.
22 However, the license granted to these individuals will not be recognized as granting
23 the privilege to practice nursing in any other party state unless explicitly agreed to by
24 that party state.]

25
26 [335.315. 1. Upon application for a license, the licensing board in a party
27 state shall ascertain, through the coordinated licensure information system, whether
28 the applicant has ever held, or is the holder of, a license issued by any other state,
29 whether there are any restrictions on the multistate licensure privilege, and whether
30 any other adverse action by any state has been taken against the license.

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

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

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

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

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

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

46
47 [335.320. In addition to the general provisions described in article III of this
48 compact, the following provisions apply:

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

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

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

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

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

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

31
32 [335.325. Notwithstanding any other powers, party state nurse licensing
33 boards shall have the authority to:

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

37 (2) Issue subpoenas for both hearings and investigations which require the
38 attendance and testimony of witnesses, and the production of evidence. Subpoenas
39 issued by a nurse licensing board in a party state for the attendance and testimony of
40 witnesses, and/or the production of evidence from another party state, shall be
41 enforced in the latter state by any court of competent jurisdiction, according to the
42 practice and procedure of that court applicable to subpoenas issued in proceedings
43 pending before it. The issuing authority shall pay any witness fees, travel expenses,
44 mileage, and other fees required by the service statutes of the state where the
45 witnesses and evidence are located;

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

48 (4) Promulgate uniform rules and regulations as provided for in subsection 3

1 of section 335.335.]

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

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

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

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

19 5. Any personally identifiable information obtained by a party state's
20 licensing board from the coordinated licensure information system may not be shared
21 with nonparty states or disclosed to other entities or individuals except to the extent
22 permitted by the laws of the party state contributing the information.

23 6. Any information contributed to the coordinated licensure information
24 system that is subsequently required to be expunged by the laws of the party state
25 contributing that information shall also be expunged from the coordinated licensure
26 information system.

27 7. The compact administrators, acting jointly with each other and in
28 consultation with the administrator of the coordinated licensure information system,
29 shall formulate necessary and proper procedures for the identification, collection, and
30 exchange of information under this compact.]

31
32 [335.335. 1. The head of the nurse licensing board, or his/her designee, of
33 each party state shall be the administrator of this compact for his/her state.

34 2. The compact administrator of each party shall furnish to the compact
35 administrator of each other party state any information and documents including, but
36 not limited to, a uniform data set of investigations, identifying information, licensure
37 data, and disclosable alternative program participation information to facilitate the
38 administration of this compact.

39 3. Compact administrators shall have the authority to develop uniform rules
40 to facilitate and coordinate implementation of this compact. These uniform rules
41 shall be adopted by party states, under the authority invested under subsection 4 of
42 section 335.325.]

43
44 [335.340. No party state or the officers or employees or agents of a party
45 state's nurse licensing board who acts in accordance with the provisions of this
46 compact shall be liable on account of any act or omission in good faith while
47 engaged in the performance of their duties under this compact. Good faith in this
48 article shall not include willful misconduct, gross negligence, or recklessness.]

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

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

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

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

18 [335.350. 1. This compact shall be liberally construed so as to effectuate the
19 purposes thereof. The provisions of this compact shall be severable and if any
20 phrase, clause, sentence, or provision of this compact is declared to be contrary to the
21 constitution of any party state or of the United States or the applicability thereof to
22 any government, agency, person, or circumstance is held invalid, the validity of the
23 remainder of this compact and the applicability thereof to any government, agency,
24 person, or circumstance shall not be affected thereby. If this compact shall be held
25 contrary to the constitution of any state party thereto, the compact shall remain in full
26 force and effect as to the remaining party states and in full force and effect as to the
27 party state affected as to all severable matters.

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

30 (1) The party states may submit the issues in dispute to an arbitration panel
31 which will be comprised of an individual appointed by the compact administrator in
32 the home state, an individual appointed by the compact administrator in the remote
33 states involved, and an individual mutually agreed upon by the compact
34 administrators of all the party states involved in the dispute;

35 (2) The decision of a majority of the arbitrators shall be final and binding.]
36

37 [335.355. 1. The term "head of the nurse licensing board" as referred to in
38 article VIII of this compact shall mean the executive director of the Missouri state
39 board of nursing.

40 2. A person who is extended the privilege to practice in this state pursuant to
41 the nurse licensure compact is subject to discipline by the board, as set forth in this
42 chapter, for violation of this chapter or the rules and regulations promulgated herein.
43 A person extended the privilege to practice in this state pursuant to the nurse
44 licensure compact shall be subject to adhere to all requirements of this chapter, as if
45 such person were originally licensed in this state.

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

1 Missouri.

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

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

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

10
11 Further amend said bill by amending the title, enacting clause, and intersectional references
12 accordingly.