

SECOND REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 1816

98TH GENERAL ASSEMBLY

---

Reported from the Committee on Financial and Governmental Organizations and Elections, May 4, 2016, with recommendation that the Senate Committee Substitute do pass.

4462S.03C

ADRIANE D. CROUSE, Secretary.

---

## AN ACT

To repeal sections 324.001, 334.040, 335.203, 335.300, 335.305, 335.310, 335.315, 335.320, 335.325, 335.330, 335.335, 335.340, 335.345, 335.350, 335.355, 336.020, 376.1237, and 630.175, RSMo, and to enact in lieu thereof thirty-four new sections relating to health care, with a contingent effective date for certain sections.

---

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

Section A. Sections 324.001, 334.040, 335.203, 335.300, 335.305, 335.310, 2 335.315, 335.320, 335.325, 335.330, 335.335, 335.340, 335.345, 335.350, 335.355, 3 336.020, 376.1237, and 630.175, RSMo, are repealed and thirty-four new sections 4 enacted in lieu thereof, to be known as sections 197.321, 197.322, 324.001, 5 334.040, 334.285, 334.1200, 334.1203, 334.1206, 334.1209, 334.1212, 334.1215, 6 334.1218, 334.1221, 334.1224, 334.1227, 334.1230, 334.1233, 335.203, 335.360, 7 335.365, 335.370, 335.375, 335.380, 335.385, 335.390, 335.395, 335.400, 335.405, 8 335.410, 335.415, 336.020, 338.202, 376.1237, and 630.175, to read as follows:

**197.321. 1. For the purposes of this section, the following terms**  
2 **shall mean:**

- 3       **(1) "Affiliated", under common control or ownership;**  
4       **(2) "Campus", a contiguous parcel or parcels of land used for a**  
5 **common purpose;**  
6       **(3) "Committee", the Missouri health facilities review committee;**  
7       **(4) "Department", the department of health and senior services;**  
8       **(5) "Facility", as defined in subdivision (11) of section 198.006.**  
9       **2. Notwithstanding any provision of sections 197.300 to 197.367**

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

10 to the contrary, there is hereby imposed a moratorium on the issuance  
11 of certificates of need by the committee for new or additional beds in  
12 any facility on or after August 28, 2016, until December 31, 2019. No  
13 new or additional beds in such facilities shall be licensed by the  
14 department, except for those new or additional beds approved by the  
15 committee under this section or pursuant to a certificate of need issued  
16 by the committee prior to August 28, 2016, subject to the limitations of  
17 subsection 4 of this section.

18 3. The moratorium shall not apply to:

19 (1) Bed additions, expansions, transfers, relocations, or  
20 replacements as described in paragraphs (e) and (g) of subdivision (9)  
21 of section 197.305 and section 197.318;

22 (2) Renovation, repair, or replacement of existing facilities and  
23 beds located on a single campus, which does not result in an increase  
24 in the number of beds licensed to the facility prior to the renovation,  
25 repair, or replacement;

26 (3) Reallocation of licensed beds among licensed facilities with  
27 common ownership and common or affiliated operators located on the  
28 same campus, provided that the total number of licensed beds on the  
29 campus does not increase;

30 (4) Construction of new or additional beds at any facility as  
31 proposed in a letter of intent filed by an applicant on or before June 1,  
32 2016; and

33 (5) Construction of new or additional beds at any facility for  
34 which the applicant demonstrates that the average occupancy of all  
35 facilities in the same category within fifteen miles of the project site  
36 has been equal to or greater than eighty-five percent during the most  
37 recent four quarters according to occupancy data published by the  
38 committee.

39 4. For the duration of the moratorium imposed under this  
40 section, the committee shall not approve any change in the owner or  
41 operator, or grant a site change, except as provided herein, for a  
42 certificate of need issued prior to the enactment of this section. The  
43 committee may approve only one site change for any project, provided  
44 that the new site shall not be located more than one-half mile from the  
45 original site.

197.322. 1. There is hereby created within the department of

2 social services the "Missouri Task Force on Certificate of Need". The  
3 task force shall be composed of the following eleven members:

4 (1) Two members of the senate from different political parties  
5 and who are not members of the Missouri health facilities review  
6 committee, appointed by the president pro tempore of the senate;

7 (2) Two members of the house of representatives from different  
8 political parties and who are not members of the Missouri health  
9 facilities review committee, appointed by the speaker of the house of  
10 representatives;

11 (3) The director of the department of health and senior services,  
12 or the director's designee;

13 (4) The director of the department of social services, or the  
14 director's designee;

15 (5) One representative of an organization of operators of long-  
16 term care facilities organized primarily as for-profit entities;

17 (6) One representative of an organization of operators of long-  
18 term care facilities organized primarily as nonprofit or benevolent  
19 entities;

20 (7) One representative of an organization of operators of assisted  
21 living facilities and residential care facilities;

22 (8) One member who has expertise in lending to the long-term  
23 care industry; and

24 (9) One member who is a certified public accountant with  
25 expertise in reimbursement systems and in providing financial cost  
26 reporting and related services to providers of long-term care services.  
27 Members of the task force, other than the legislative members and  
28 department directors, shall be appointed by the governor with the  
29 advice and consent of the senate no later than December 31, 2016.

30 2. A majority of the task force membership shall constitute a  
31 quorum and shall elect a chair and vice-chair of the task force.

32 3. A majority vote of a quorum of the task force is required for  
33 any action.

34 4. The director of the department of social services, or his or her  
35 designee, shall convene the initial meeting of the task force no later  
36 than March 1, 2017. The task force shall meet at least every other  
37 month. Meetings may be held by telephone or video conference at the  
38 discretion of the chair.

39           **5. Members shall serve on the task force without compensation**  
40 **but may, subject to appropriations, be reimbursed for actual and**  
41 **necessary expenses incurred in the performance of their official duties**  
42 **as members of the task force. Subject to appropriations, the task force**  
43 **may engage the services of a consulting firm with expertise in**  
44 **consulting for providers of long-term care regarding quality and**  
45 **efficiency of care. No consulting firm that has a direct or indirect**  
46 **financial relationship with a member of the task force or his or her**  
47 **family members shall be engaged by the task force.**

48           **6. The goal of the task force is to develop a comprehensive**  
49 **proposal to reform Missouri's certificate of need law, sections 197.300**  
50 **to 198.367, as applied to long-term care facilities.**

51           **7. No later than December 31, 2018, the task force shall:**

52           **(1) Review practices in other states regarding certificates of**  
53 **need for long-term care facilities and consider how certificates of need**  
54 **support or detract from quality of care, cost containment, reasonable**  
55 **access, consumer choice, average occupancy, and public accountability;**

56           **(2) Review the current occupancy, utilization of long-term care**  
57 **beds, and staffing in the state as compared to other states, and evaluate**  
58 **the impact of certificate of need laws on such occupancy, utilization,**  
59 **and staffing;**

60           **(3) Evaluate the relationship between the certificate of need laws**  
61 **and MO HealthNet reimbursement rates on the long-term care**  
62 **marketplace;**

63           **(4) Develop appropriate factors to determine need for new or**  
64 **additional long-term care beds if necessary to support the findings and**  
65 **recommendations of the task force; and**

66           **(5) Propose to the appropriate public and private organizations**  
67 **goals, objectives, strategies, and tactics designed to end or improve the**  
68 **certificate of need process.**

69           **8. On or before December 31, 2018, the task force shall submit a**  
70 **report on its findings to the governor and general assembly. The report**  
71 **shall include any dissenting opinions in addition to any majority**  
72 **opinions.**

73           **9. The task force shall expire on January 1, 2019, or upon**  
74 **submission of a report as provided for under subsection 8 of this**  
75 **section, whichever is earlier.**

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

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

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

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

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

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

35 4. The division shall provide clerical and other staff services relating to  
36 the issuance and renewal of licenses for all the professional licensing and

37 regulating boards and commissions assigned to the division. The division shall  
38 perform the financial management and clerical functions as they each relate to  
39 issuance and renewal of licenses and certificates. "Issuance and renewal of  
40 licenses and certificates" means the ministerial function of preparing and  
41 delivering licenses or certificates, and obtaining material and information for the  
42 board or commission in connection with the renewal thereof. It does not include  
43 any discretionary authority with regard to the original review of an applicant's  
44 qualifications for licensure or certification, or the subsequent review of licensee's  
45 or certificate holder's qualifications, or any disciplinary action contemplated  
46 against the licensee or certificate holder. The division may develop and  
47 implement microfilming systems and automated or manual management  
48 information systems.

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

56         6. For accounting purposes, the appropriation to the division and to the  
57 office of administration for the payment of rent for quarters provided for the  
58 division shall be made from the "Professional Registration Fees Fund", which is  
59 hereby created, and is to be used solely for the purpose defined in subsection 5  
60 of this section. The fund shall consist of moneys deposited into it from each  
61 board's fund. Each board shall contribute a prorated amount necessary to fund  
62 the division for services rendered and rent based upon the system of accounting  
63 and budgeting established by the director of the division as provided in  
64 subsection 5 of this section. Transfers of funds to the professional registration  
65 fees fund shall be made by each board on July first of each year; provided,  
66 however, that the director of the division may establish an alternative date or  
67 dates of transfers at the request of any board. Such transfers shall be made until  
68 they equal the prorated amount for services rendered and rent by the  
69 division. The provisions of section 33.080 to the contrary notwithstanding, money  
70 in this fund shall not be transferred and placed to the credit of general revenue.

71         7. The director of the division shall be responsible for collecting and  
72 accounting for all moneys received by the division or its component agencies. Any

73 money received by a board or commission shall be promptly given, identified by  
74 type and source, to the director. The director shall keep a record by board and  
75 state accounting system classification of the amount of revenue the director  
76 receives. The director shall promptly transmit all receipts to the department of  
77 revenue for deposit in the state treasury to the credit of the appropriate  
78 fund. The director shall provide each board with all relevant financial  
79 information in a timely fashion. Each board shall cooperate with the director by  
80 providing necessary information.

81           8. All educational transcripts, test scores, complaints, investigatory  
82 reports, and information pertaining to any person who is an applicant or licensee  
83 of any agency assigned to the division of professional registration by statute or  
84 by the department are confidential and may not be disclosed to the public or any  
85 member of the public, except with the written consent of the person whose records  
86 are involved. The agency which possesses the records or information shall  
87 disclose the records or information if the person whose records or information is  
88 involved has consented to the disclosure. Each agency is entitled to the  
89 attorney-client privilege and work-product privilege to the same extent as any  
90 other person. Provided, however, that any board may disclose confidential  
91 information without the consent of the person involved in the course of voluntary  
92 interstate exchange of information, or in the course of any litigation concerning  
93 that person, or pursuant to a lawful request, or to other administrative or law  
94 enforcement agencies acting within the scope of their statutory  
95 authority. Information regarding identity, including names and addresses,  
96 registration, and currency of the license of the persons possessing licenses to  
97 engage in a professional occupation and the names and addresses of applicants  
98 for such licenses is not confidential information.

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

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

108           11. (1) The following boards and commissions are assigned by specific

109 type transfers to the division of professional registration: Missouri state board of  
110 accountancy, chapter 326; board of cosmetology and barber examiners, chapters  
111 328 and 329; Missouri board for architects, professional engineers, professional  
112 land surveyors and landscape architects, chapter 327; Missouri state board of  
113 chiropractic examiners, chapter 331; state board of registration for the healing  
114 arts, chapter 334; Missouri dental board, chapter 332; state board of embalmers  
115 and funeral directors, chapter 333; state board of optometry, chapter 336;  
116 Missouri state board of nursing, chapter 335; board of pharmacy, chapter 338;  
117 state board of podiatric medicine, chapter 330; Missouri real estate appraisers  
118 commission, chapter 339; and Missouri veterinary medical board, chapter  
119 340. The governor shall appoint members of these boards by and with the advice  
120 and consent of the senate.

121         (2) The boards and commissions assigned to the division shall exercise all  
122 their respective statutory duties and powers, except those clerical and other staff  
123 services involving collecting and accounting for moneys and financial  
124 management relating to the issuance and renewal of licenses, which services shall  
125 be provided by the division, within the appropriation therefor. Nothing herein  
126 shall prohibit employment of professional examining or testing services from  
127 professional associations or others as required by the boards or commissions on  
128 contract. Nothing herein shall be construed to affect the power of a board or  
129 commission to expend its funds as appropriated. However, the division shall  
130 review the expense vouchers of each board. The results of such review shall be  
131 submitted to the board reviewed and to the house and senate appropriations  
132 committees annually.

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

138         (4) "Board personnel", as used in this section or chapters 317, 326, 327,  
139 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, and 345, shall  
140 mean personnel whose functions and responsibilities are in areas not related to  
141 the clerical duties involving the issuance and renewal of licenses, to the collecting  
142 and accounting for moneys, or to financial management relating to issuance and  
143 renewal of licenses; specifically included are executive secretaries (or comparable  
144 positions), consultants, inspectors, investigators, counsel, and secretarial support



145 staff for these positions; and such other positions as are established and  
146 authorized by statute for a particular board or commission. Boards and  
147 commissions may employ legal counsel, if authorized by law, and temporary  
148 personnel if the board is unable to meet its responsibilities with the employees  
149 authorized above. Any board or commission which hires temporary employees  
150 shall annually provide the division director and the appropriation committees of  
151 the general assembly with a complete list of all persons employed in the previous  
152 year, the length of their employment, the amount of their remuneration, and a  
153 description of their responsibilities.

154 (5) Board personnel for each board or commission shall be employed by  
155 and serve at the pleasure of the board or commission, shall be supervised as the  
156 board or commission designates, and shall have their duties and compensation  
157 prescribed by the board or commission, within appropriations for that purpose,  
158 except that compensation for board personnel shall not exceed that established  
159 for comparable positions as determined by the board or commission pursuant to  
160 the job and pay plan of the department of insurance, financial institutions and  
161 professional registration. Nothing herein shall be construed to permit salaries  
162 for any board personnel to be lowered except by board action.

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

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

170 14. (1) **The state board of nursing, board of pharmacy, Missouri**  
171 **dental board, state committee of psychologists, state board of**  
172 **chiropractic examiners, state board of optometry, Missouri board of**  
173 **occupational therapy, or state board of registration for the healing arts**  
174 **may individually or collectively enter into a contractual agreement**  
175 **with the department of health and senior services, a public institution**  
176 **of higher education, or a nonprofit entity for the purpose of collecting**  
177 **and analyzing workforce data from its licensees, registrants, or permit**  
178 **holders for future workforce planning and to assess the accessibility**  
179 **and availability of qualified health care services and practitioners in**  
180 **Missouri. The boards shall work collaboratively with other state**

181 governmental entities to ensure coordination and avoid duplication of  
182 efforts.

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

188 (3) Data collection shall be controlled and approved by the  
189 applicable state board conducting or requesting the  
190 collection. Notwithstanding the provisions of sections 324.010 and  
191 334.001, the boards may release identifying data to the contractor to  
192 facilitate data analysis of the health care workforce including, but not  
193 limited to, geographic, demographic, and practice or professional  
194 characteristics of licensees. The state board shall not request or be  
195 authorized to collect income or other financial earnings data.

196 (4) Data collected under this subsection shall be deemed the  
197 property of the state board requesting the data. Data shall be  
198 maintained by the state board in accordance with chapter 610, provided  
199 that any information deemed closed or confidential under subsection  
200 8 of this section or any other provision of state law shall not be  
201 disclosed without consent of the applicable licensee or entity or as  
202 otherwise authorized by law. Data shall only be released in an  
203 aggregate form by geography, profession or professional specialization,  
204 or population characteristic in a manner that cannot be used to  
205 identify a specific individual or entity. Data suppression standards  
206 shall be addressed and established in the contractual agreement.

207 (5) Contractors shall maintain the security and confidentiality  
208 of data received or collected under this subsection and shall not use,  
209 disclose, or release any data without approval of the applicable state  
210 board. The contractual agreement between the applicable state board  
211 and contractor shall establish a data release and research review policy  
212 to include legal and institutional review board, or agency equivalent,  
213 approval.

214 (6) Each board may promulgate rules subject to the provisions  
215 of this subsection and chapter 536 to effectuate and implement the  
216 workforce data collection and analysis authorized by this  
217 subsection. Any rule or portion of a rule, as that term is defined in

218 **section 536.010, that is created under the authority delegated in this**  
219 **section shall become effective only if it complies with and is subject to**  
220 **all of the provisions of chapter 536 and, if applicable, section**  
221 **536.028. This section and chapter 536 are nonseverable, and if any of**  
222 **the powers vested with the general assembly under chapter 536 to**  
223 **review, to delay the effective date, or to disapprove and annul a rule**  
224 **are subsequently held unconstitutional, then the grant of rulemaking**  
225 **authority and any rule proposed or adopted after August 28, 2016, shall**  
226 **be invalid and void.**

334.040. 1. Except as provided in section 334.260, all persons desiring to  
2 practice as physicians and surgeons in this state shall be examined as to their  
3 fitness to engage in such practice by the board. All persons applying for  
4 examination shall file a completed application with the board upon forms  
5 furnished by the board.

6 2. The examination shall be sufficient to test the applicant's fitness to  
7 practice as a physician and surgeon. The examination shall be conducted in such  
8 a manner as to conceal the identity of the applicant until all examinations have  
9 been scored. In all such examinations an average score of not less than seventy-  
10 five percent is required to pass; provided, however, that the board may require  
11 applicants to take the Federation Licensing Examination, also known as FLEX,  
12 or the United States Medical Licensing Examination (USMLE). If the FLEX  
13 examination is required, a weighted average score of no less than seventy-five is  
14 required to pass. Scores from one test administration of **[the FLEX] an**  
15 **examination** shall not be combined or averaged with scores from other test  
16 administrations to achieve a passing score. **[The passing score of the United**  
17 **States Medical Licensing Examination shall be determined by the board through**  
18 **rule and regulation.]** Applicants graduating from a medical or osteopathic college,  
19 as **[defined] described** in section 334.031 prior to January 1, 1994, shall provide  
20 proof of successful completion of the FLEX, USMLE, **[an exam administered by]**  
21 **the National Board of Osteopathic Medical Examiners [(NBOME),]**  
22 **Comprehensive Licensing Exam (COMLEX),** a state board examination  
23 approved by the board, compliance with subsection 2 of section 334.031, or  
24 compliance with 20 CSR 2150-2.005. Applicants graduating from a medical or  
25 osteopathic college, as **[defined] described** in section 334.031 on or after January  
26 1, 1994, must provide proof of **successful** completion of the USMLE or **[an exam**  
27 **administered by NBOME] the COMLEX** or provide proof of compliance with

28 subsection 2 of section 334.031. The board shall not issue a permanent license  
29 as a physician and surgeon or allow the Missouri state board examination to be  
30 administered to any applicant who has failed to achieve a passing score within  
31 three attempts on licensing examinations administered in one or more states or  
32 territories of the United States, the District of Columbia or Canada. The steps  
33 one, two and three of the United States Medical Licensing Examination **or the**  
34 **National Board of Osteopathic Medical Examiners Comprehensive**  
35 **Licensing Exam** shall be taken within a seven-year period with no more than  
36 three attempts on any step of the examination; however, the board may grant an  
37 extension of the seven-year period if the applicant has obtained a MD/PhD degree  
38 in a program accredited by the Liaison Committee on Medical Education (LCME)  
39 and a regional university accrediting body or a DO/PhD degree accredited by the  
40 American Osteopathic Association and a regional university accrediting  
41 body. The board may waive the provisions of this section if the applicant is  
42 licensed to practice as a physician and surgeon in another state of the United  
43 States, the District of Columbia or Canada and the applicant has achieved a  
44 passing score on a licensing examination administered in a state or territory of  
45 the United States or the District of Columbia and no license issued to the  
46 applicant has been disciplined in any state or territory of the United States or the  
47 District of Columbia [and the applicant is certified in the applicant's area of  
48 specialty by the American Board of Medical Specialties, the American Osteopathic  
49 Association, or other certifying agency approved by the board by rule].

50 3. If the board waives the provisions of this section, then the license  
51 issued to the applicant may be limited or restricted to the applicant's board  
52 specialty. The board shall not be permitted to favor any particular school or  
53 system of healing.

54 4. If an applicant has not actively engaged in the practice of clinical  
55 medicine or held a teaching or faculty position in a medical or osteopathic school  
56 approved by the American Medical Association, the Liaison Committee on Medical  
57 Education, or the American Osteopathic Association for any two years in the  
58 three-year period immediately preceding the filing of his or her application for  
59 licensure, the board may require successful completion of another examination,  
60 continuing medical education, or further training before issuing a permanent  
61 license. The board shall adopt rules to prescribe the form and manner of such  
62 reexamination, continuing medical education, and training.

**334.285. 1. For purposes of this section, the following terms shall**

2 mean:

3 (1) "Continuing medical education", continued postgraduate  
4 medical education intended to provide medical professionals with  
5 knowledge of new developments in their field;

6 (2) "Maintenance of certification", any process requiring periodic  
7 recertification examinations to maintain specialty medical board  
8 certification;

9 (3) "Maintenance of licensure", the Federation of State Medical  
10 Boards' proprietary framework for physician license renewal including  
11 additional periodic testing other than continuing medical education;

12 (4) "Specialty medical board certification", certification by a  
13 board that specializes in one particular area of medicine and typically  
14 requires additional and more strenuous exams than state board of  
15 registration for the healing arts requirements to practice medicine.

16 2. The state shall not require any form of maintenance of  
17 licensure as a condition of physician licensure including requiring any  
18 form of maintenance of licensure tied to maintenance of  
19 certification. Current requirements including continuing medical  
20 education shall suffice to demonstrate professional competency.

21 3. The state shall not require any form of specialty medical board  
22 certification or any maintenance of certification to practice medicine  
23 within the state. There shall be no discrimination by the state board  
24 of registration for the healing arts or any other state agency against  
25 physicians who do not maintain specialty medical board certification  
26 including recertification.

#### 334.1200. PURPOSE

2 The purpose of this compact is to facilitate interstate practice of  
3 physical therapy with the goal of improving public access to physical  
4 therapy services. The practice of physical therapy occurs in the state  
5 where the patient/client is located at the time of the patient/client  
6 encounter. The compact preserves the regulatory authority of states to  
7 protect public health and safety through the current system of state  
8 licensure.

9 This compact is designed to achieve the following objectives:

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

12 2. Enhance the states' ability to protect the public's health and

13 safety;

14 3. Encourage the cooperation of member states in regulating  
15 multistate physical therapy practice;

16 4. Support spouses of relocating military members;

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

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

### 334.1203. DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

52           17. "Physical therapy", "physical therapy practice", and "the  
53 practice of physical therapy" mean the care and services provided by  
54 or under the direction and supervision of a licensed physical therapist.

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

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

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

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

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

**334.1206. STATE PARTICIPATION IN THE COMPACT**

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

3           1. Participate fully in the commission's data system, including  
4 using the commission's unique identifier as defined in rules;

5           2. Have a mechanism in place for receiving and investigating  
6 complaints about licensees;

7           3. Notify the commission, in compliance with the terms of the  
8 compact and rules, of any adverse action or the availability of  
9 investigative information regarding a licensee;

10          4. Fully implement a criminal background check requirement,  
11 within a time frame established by rule, by receiving the results of the  
12 Federal Bureau of Investigation record search on criminal background  
13 checks and use the results in making licensure decisions in accordance  
14 with section 334.1206.B.;

15          5. Comply with the rules of the commission;

16          6. Utilize a recognized national examination as a requirement for  
17 licensure pursuant to the rules of the commission; and

18          7. Have continuing competence requirements as a condition for  
19 license renewal.

20          B. Upon adoption of sections 334.1200 to 334.1233, the member  
21 state shall have the authority to obtain biometric-based information  
22 from each physical therapy licensure applicant and submit this  
23 information to the Federal Bureau of Investigation for a criminal  
24 background check in accordance with 28 U.S.C. Section 534 and 42  
25 U.S.C. Section 14616.

26          C. A member state shall grant the compact privilege to a licensee  
27 holding a valid unencumbered license in another member state in  
28 accordance with the terms of the compact and rules.

29          D. Member states may charge a fee for granting a compact  
30 privilege.

**334.1209. COMPACT PRIVILEGE**

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

4           1. Hold a license in the home state;



- 5           **2. Have no encumbrance on any state license;**
- 6           **3. Be eligible for a compact privilege in any member state in**  
7 **accordance with section 334.1209D, G and H;**
- 8           **4. Have not had any adverse action against any license or**  
9 **compact privilege within the previous 2 years;**
- 10          **5. Notify the commission that the licensee is seeking the compact**  
11 **privilege within a remote state(s);**
- 12          **6. Pay any applicable fees, including any state fee, for the**  
13 **compact privilege;**
- 14          **7. Meet any jurisprudence requirements established by the**  
15 **remote state(s) in which the licensee is seeking a compact privilege;**  
16 **and**
- 17          **8. Report to the commission adverse action taken by any**  
18 **nonmember state within thirty days from the date the adverse action**  
19 **is taken.**
- 20          **B. The compact privilege is valid until the expiration date of the**  
21 **home license. The licensee must comply with the requirements of**  
22 **section 334.1209A to maintain the compact privilege in the remote state.**
- 23          **C. A licensee providing physical therapy in a remote state under**  
24 **the compact privilege shall function within the laws and regulations of**  
25 **the remote state.**
- 26          **D. A licensee providing physical therapy in a remote state is**  
27 **subject to that state's regulatory authority. A remote state may, in**  
28 **accordance with due process and that state's laws, remove a licensee's**  
29 **compact privilege in the remote state for a specific period of time,**  
30 **impose fines, and/or take any other necessary actions to protect the**  
31 **health and safety of its citizens. The licensee is not eligible for a**  
32 **compact privilege in any state until the specific time for removal has**  
33 **passed and all fines are paid.**
- 34          **E. If a home state license is encumbered, the licensee shall lose**  
35 **the compact privilege in any remote state until the following occur:**
  - 36           **1. The home state license is no longer encumbered; and**
  - 37           **2. Two years have elapsed from the date of the adverse action.**
- 38          **F. Once an encumbered license in the home state is restored to**  
39 **good standing, the licensee must meet the requirements of section**  
40 **334.1209A to obtain a compact privilege in any remote state.**
- 41          **G. If a licensee's compact privilege in any remote state is**

42 removed, the individual shall lose the compact privilege in any remote  
43 state until the following occur:

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

46 2. All fines have been paid; and

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

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

#### 334.1212. ACTIVE DUTY MILITARY PERSONNEL OR THEIR 2 SPOUSES

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

6 A. Home of record;

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

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

#### 334.1215. ADVERSE ACTIONS

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

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

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

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

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

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

22           2. Issue subpoenas for both hearings and investigations that  
23 require the attendance and testimony of witnesses, and the production  
24 of evidence. Subpoenas issued by a physical therapy licensing board  
25 in a party state for the attendance and testimony of witnesses, and/or  
26 the production of evidence from another party state, shall be enforced  
27 in the latter state by any court of competent jurisdiction, according to  
28 the practice and procedure of that court applicable to subpoenas issued  
29 in proceedings pending before it. The issuing authority shall pay any  
30 witness fees, travel expenses, mileage, and other fees required by the  
31 service statutes of the state where the witnesses and/or evidence are  
32 located; and

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

#### 36           F. Joint Investigations

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

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

### 2           334.1218. ESTABLISHMENT OF THE PHYSICAL THERAPY 2 COMPACT COMMISSION.

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

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

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

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

14           **B. Membership, Voting, and Meetings**

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

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

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

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

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

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

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

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

35           1. Establish the fiscal year of the commission;

36           2. Establish bylaws;

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

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

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

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

48           7. Purchase and maintain insurance and bonds;

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

51           **9. Hire employees, elect or appoint officers, fix compensation,**  
52 **define duties, grant such individuals appropriate authority to carry out**  
53 **the purposes of the compact, and to establish the commission's**  
54 **personnel policies and programs relating to conflicts of interest,**  
55 **qualifications of personnel, and other related personnel matters;**

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

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

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

67           **13. Establish a budget and make expenditures;**

68           **14. Borrow money;**

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

74           **16. Provide and receive information from, and cooperate with,**  
75 **law enforcement agencies;**

76           **17. Establish and elect an executive board; and**

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

80           **D. The Executive Board**

81           **The executive board shall have the power to act on behalf of the**  
82 **commission according to the terms of this compact.**

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

84           **a. Seven voting members who are elected by the commission**  
85 **from the current membership of the commission;**

86           **b. One ex officio, nonvoting member from the recognized**  
87 **national physical therapy professional association; and**

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

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

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

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

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

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

101 b. Ensure compact administration services are appropriately  
102 provided, contractual or otherwise;

103 c. Prepare and recommend the budget;

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

105 e. Monitor compact compliance of member states and provide  
106 compliance reports to the commission;

107 f. Establish additional committees as necessary; and

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

109 E. Meetings of the Commission

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

113 2. The commission or the executive board or other committees  
114 of the commission may convene in a closed, nonpublic meeting if the  
115 commission or executive board or other committees of the commission  
116 must discuss:

117 a. Noncompliance of a member state with its obligations under  
118 the compact;

119 b. The employment, compensation, discipline or other matters,  
120 practices or procedures related to specific employees or other matters  
121 related to the commission's internal personnel practices and  
122 procedures;

123 c. Current, threatened, or reasonably anticipated litigation;

124 d. Negotiation of contracts for the purchase, lease, or sale of

125 **goods, services, or real estate;**

126 **e. Accusing any person of a crime or formally censuring any**  
127 **person;**

128 **f. Disclosure of trade secrets or commercial or financial**  
129 **information that is privileged or confidential;**

130 **g. Disclosure of information of a personal nature where**  
131 **disclosure would constitute a clearly unwarranted invasion of personal**  
132 **privacy;**

133 **h. Disclosure of investigative records compiled for law**  
134 **enforcement purposes;**

135 **i. Disclosure of information related to any investigative reports**  
136 **prepared by or on behalf of or for use of the commission or other**  
137 **committee charged with responsibility of investigation or**  
138 **determination of compliance issues pursuant to the compact; or**

139 **j. Matters specifically exempted from disclosure by federal or**  
140 **member state statute.**

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

145 **4. The commission shall keep minutes that fully and clearly**  
146 **describe all matters discussed in a meeting and shall provide a full and**  
147 **accurate summary of actions taken, and the reasons therefore,**  
148 **including a description of the views expressed. All documents**  
149 **considered in connection with an action shall be identified in such**  
150 **minutes. All minutes and documents of a closed meeting shall remain**  
151 **under seal, subject to release by a majority vote of the commission or**  
152 **order of a court of competent jurisdiction.**

#### 153 **F. Financing of the Commission**

154 **1. The commission shall pay, or provide for the payment of, the**  
155 **reasonable expenses of its establishment, organization, and ongoing**  
156 **activities.**

157 **2. The commission may accept any and all appropriate revenue**  
158 **sources, donations, and grants of money, equipment, supplies,**  
159 **materials, and services.**

160 **3. The commission may levy on and collect an annual assessment**  
161 **from each member state or impose fees on other parties to cover the**

162 cost of the operations and activities of the commission and its staff,  
163 which must be in a total amount sufficient to cover its annual budget  
164 as approved each year for which revenue is not provided by other  
165 sources. The aggregate annual assessment amount shall be allocated  
166 based upon a formula to be determined by the commission, which shall  
167 promulgate a rule binding upon all member states.

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

172 5. The commission shall keep accurate accounts of all receipts  
173 and disbursements. The receipts and disbursements of the commission  
174 shall be subject to the audit and accounting procedures established  
175 under its bylaws. However, all receipts and disbursements of funds  
176 handled by the commission shall be audited yearly by a certified or  
177 licensed public accountant, and the report of the audit shall be  
178 included in and become part of the annual report of the commission.

179 **G. Qualified Immunity, Defense, and Indemnification**

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

192 2. The commission shall defend any member, officer, executive  
193 director, employee or representative of the commission in any civil  
194 action seeking to impose liability arising out of any actual or alleged  
195 act, error, or omission that occurred within the scope of commission  
196 employment, duties, or responsibilities, or that the person against  
197 whom the claim is made had a reasonable basis for believing occurred  
198 within the scope of commission employment, duties, or responsibilities;



199 provided that nothing herein shall be construed to prohibit that person  
200 from retaining his or her own counsel; and provided further, that the  
201 actual or alleged act, error, or omission did not result from that  
202 person's intentional or willful or wanton misconduct.

203 3. The commission shall indemnify and hold harmless any  
204 member, officer, executive director, employee, or representative of the  
205 commission for the amount of any settlement or judgment obtained  
206 against that person arising out of any actual or alleged act, error or  
207 omission that occurred within the scope of commission employment,  
208 duties, or responsibilities, or that such person had a reasonable basis  
209 for believing occurred within the scope of commission employment,  
210 duties, or responsibilities, provided that the actual or alleged act,  
211 error, or omission did not result from the intentional or willful or  
212 wanton misconduct of that person.

#### 334.1221. DATA SYSTEM

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

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

10 1. Identifying information;

11 2. Licensure data;

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

13 4. Nonconfidential information related to alternative program  
14 participation;

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

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

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

21 D. The commission shall promptly notify all member states of  
22 any adverse action taken against a licensee or an individual applying  
23 for a license. Adverse action information pertaining to a licensee in

24 any member state will be available to any other member state.

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

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

#### 334.1224. RULEMAKING

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

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

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

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

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

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

22 E. The notice of proposed rulemaking shall include:

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

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

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

29 4. The manner in which interested persons may submit notice to  
30 the commission of their intention to attend the public hearing and any

31 written comments.

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

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

- 38 1. At least twenty-five persons;
- 39 2. A state or federal governmental subdivision or agency; or
- 40 3. An association having at least twenty-five members.

41 H. If a hearing is held on the proposed rule or amendment, the  
42 commission shall publish the place, time, and date of the scheduled  
43 public hearing. If the hearing is held via electronic means, the  
44 commission shall publish the mechanism for access to the electronic  
45 hearing.

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

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

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

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

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

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

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

68           L. Upon determination that an emergency exists, the commission  
 69 may consider and adopt an emergency rule without prior notice,  
 70 opportunity for comment, or hearing, provided that the usual  
 71 rulemaking procedures provided in the compact and in this section  
 72 shall be retroactively applied to the rule as soon as reasonably possible,  
 73 in no event later than ninety days after the effective date of the  
 74 rule. For the purposes of this provision, an emergency rule is one that  
 75 must be adopted immediately in order to:

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

81           M. The commission or an authorized committee of the  
 82 commission may direct revisions to a previously adopted rule or  
 83 amendment for purposes of correcting typographical errors, errors in  
 84 format, errors in consistency, or grammatical errors. Public notice of  
 85 any revisions shall be posted on the website of the commission. The  
 86 revision shall be subject to challenge by any person for a period of  
 87 thirty days after posting. The revision may be challenged only on  
 88 grounds that the revision results in a material change to a rule. A  
 89 challenge shall be made in writing, and delivered to the chair of the  
 90 commission prior to the end of the notice period. If no challenge is  
 91 made, the revision will take effect without further action. If the  
 92 revision is challenged, the revision may not take effect without the  
 93 approval of the commission.

## 334.1227. OVERSIGHT, DISPUTE RESOLUTION, AND 2 ENFORCEMENT

### 3 A. Oversight

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

9           2. All courts shall take judicial notice of the compact and the  
 10 rules in any judicial or administrative proceeding in a member state  
 11 pertaining to the subject matter of this compact which may affect the

12 **powers, responsibilities or actions of the commission.**

13 **3. The commission shall be entitled to receive service of process**  
14 **in any such proceeding, and shall have standing to intervene in such**  
15 **a proceeding for all purposes. Failure to provide service of process to**  
16 **the commission shall render a judgment or order void as to the**  
17 **commission, this compact, or promulgated rules.**

18 **B. Default, Technical Assistance, and Termination**

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

22 **a. Provide written notice to the defaulting state and other**  
23 **member states of the nature of the default, the proposed means of**  
24 **curing the default and/or any other action to be taken by the**  
25 **commission; and**

26 **b. Provide remedial training and specific technical assistance**  
27 **regarding the default.**

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

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

39 **4. A state that has been terminated is responsible for all**  
40 **assessments, obligations, and liabilities incurred through the effective**  
41 **date of termination, including obligations that extend beyond the**  
42 **effective date of termination.**

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

47 **6. The defaulting state may appeal the action of the commission**  
48 **by petitioning the United States District Court for the District of**

49 Columbia or the federal district where the commission has its principal  
50 offices. The prevailing member shall be awarded all costs of such  
51 litigation, including reasonable attorney's fees.

52 C. Dispute Resolution

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

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

58 D. Enforcement

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

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

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

334.1230. DATE OF IMPLEMENTATION OF THE INTERSTATE  
2 COMMISSION FOR PHYSICAL THERAPY PRACTICE AND ASSOCIATED  
3 RULES, WITHDRAWAL, AND AMENDMENT

4 A. The compact shall come into effect on the date on which the  
5 compact statute is enacted into law in the tenth member state. The  
6 provisions, which become effective at that time, shall be limited to the  
7 powers granted to the commission relating to assembly and the  
8 promulgation of rules. Thereafter, the commission shall meet and  
9 exercise rulemaking powers necessary to the implementation and  
10 administration of the compact.

11 B. Any state that joins the compact subsequent to the  
12 commission's initial adoption of the rules shall be subject to the rules  
13 as they exist on the date on which the compact becomes law in that  
14 state. Any rule that has been previously adopted by the commission

15 shall have the full force and effect of law on the day the compact  
16 becomes law in that state.

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

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

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

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

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

### 334.1233. CONSTRUCTION AND SEVERABILITY

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

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

3 2. Subject to appropriation **and board disbursement**, grants shall be  
4 awarded through the nursing education incentive program to eligible institutions  
5 of higher education based on criteria jointly determined by the board and the  
6 department **of higher education**. Grant award amounts shall not exceed one

7 hundred fifty thousand dollars. No campus shall receive more than one grant per  
8 year.

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

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

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

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

21 5. The [department] **board** shall be the administrative agency responsible  
22 for implementation of the program established under sections 335.200 to 335.203,  
23 and shall promulgate reasonable rules for the exercise of its functions and the  
24 effectuation of the purposes of sections 335.200 to 335.203. The [department]  
25 **board** shall, by rule, prescribe the form, time, and method of filing applications  
26 and shall supervise the processing of such applications.

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

**335.360. 1. The party states find that:**

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

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

7 (3) **The expanded mobility of nurses and the use of advanced**  
8 **communication technologies as part of our nation's health care delivery**



9 system require greater coordination and cooperation among states in  
10 the areas of nurse licensure and regulation;

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (2) "Alternative program", a nondisciplinary monitoring program  
11 approved by a licensing board;

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

17           (4) "Current significant investigative information":

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

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

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

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

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

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

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

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

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

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

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

49 state;

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

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

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

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

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

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

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

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

25 (3) Has, if a graduate of a foreign prelicensure education  
26 program not taught in English or if English is not the individual's  
27 native language, successfully passed an English proficiency  
28 examination that includes the components of reading, speaking,

29 **writing, and listening;**

30 **(4) Has successfully passed an NCLEX-RN or NCLEX-PN**  
31 **examination or recognized predecessor, as applicable;**

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

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

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

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

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

45 **(10) Is subject to self-disclosure requirements regarding current**  
46 **participation in an alternative program; and**

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

48 **4. All party states shall be authorized, in accordance with**  
49 **existing state due process law, to take adverse action against a nurse's**  
50 **multistate licensure privilege such as revocation, suspension,**  
51 **probation, or any other action that affects a nurse's authorization to**  
52 **practice under a multistate licensure privilege, including cease and**  
53 **desist actions. If a party state takes such action, it shall promptly**  
54 **notify the administrator of the coordinated licensure information**  
55 **system. The administrator of the coordinated licensure information**  
56 **system shall promptly notify the home state of any such actions by**  
57 **remote states.**

58 **5. A nurse practicing in a party state shall comply with the state**  
59 **practice laws of the state in which the client is located at the time**  
60 **service is provided. The practice of nursing is not limited to patient**  
61 **care, but shall include all nursing practice as defined by the state**  
62 **practice laws of the party state in which the client is located. The**  
63 **practice of nursing in a party state under a multistate licensure**  
64 **privilege shall subject a nurse to the jurisdiction of the licensing board,**  
65 **the courts, and the laws of the party state in which the client is located**

66 at the time service is provided.

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

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

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

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

          335.375. 1. Upon application for a multistate license, the  
2 licensing board in the issuing party state shall ascertain, through the  
3 coordinated licensure information system, whether the applicant has  
4 ever held, or is the holder of, a license issued by any other state,  
5 whether there are any encumbrances on any license or multistate  
6 licensure privilege held by the applicant, whether any adverse action  
7 has been taken against any license or multistate licensure privilege  
8 held by the applicant, and whether the applicant is currently  
9 participating in an alternative program.

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

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

16 **commission.**

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

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

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

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

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

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

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

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

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

22           (4) Issue subpoenas for both hearings and investigations that  
23 require the attendance and testimony of witnesses as well as the  
24 production of evidence. Subpoenas issued by a licensing board in a  
25 party state for the attendance and testimony of witnesses or the  
26 production of evidence from another party state shall be enforced in

27 the latter state by any court of competent jurisdiction according to the  
28 practice and procedure of that court applicable to subpoenas issued in  
29 proceedings pending before it. The issuing authority shall pay any  
30 witness fees, travel expenses, mileage, and other fees required by the  
31 service statutes of the state in which the witnesses or evidence are  
32 located;

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

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

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

44 2. If adverse action is taken by the home state against a nurse's  
45 multistate license, the nurse's multistate licensure privilege to practice  
46 in all other party states shall be deactivated until all encumbrances  
47 have been removed from the multistate license. All home state  
48 disciplinary orders that impose adverse action against a nurse's  
49 multistate license shall include a statement that the nurse's multistate  
50 licensure privilege is deactivated in all party states during the  
51 pendency of the order.

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

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

7 2. The commission, in consultation with the administrator of the

8 coordinated licensure information system, shall formulate necessary  
9 and proper procedures for the identification, collection, and exchange  
10 of information under this compact.

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

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

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

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

31 7. Any information contributed to the coordinated licensure  
32 information system that is subsequently required to be expunged by the  
33 laws of the party state contributing that information shall also be  
34 expunged from the coordinated licensure information system.

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

38 (1) Identifying information;  
39 (2) Licensure data;  
40 (3) Information related to alternative program participation; and  
41 (4) Other information that may facilitate the administration of  
42 this compact, as determined by commission rules.

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



45 state.

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

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

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

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

13 2. (1) Each party state shall have and be limited to one  
14 administrator. The head of the state licensing board or designee shall  
15 be the administrator of this compact for each party state. Any  
16 administrator may be removed or suspended from office as provided by  
17 the law of the state from which the administrator is appointed. Any  
18 vacancy occurring in the commission shall be filled in accordance with  
19 the laws of the party state in which the vacancy exists.

20 (2) Each administrator shall be entitled to one vote with regard  
21 to the promulgation of rules and creation of bylaws and shall otherwise  
22 have an opportunity to participate in the business and affairs of the  
23 commission. An administrator shall vote in person or by such other  
24 means as provided in the bylaws. The bylaws may provide for an  
25 administrator's participation in meetings by telephone or other means  
26 of communication.

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

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

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

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

37           **(b) The employment, compensation, discipline, or other**  
38 **personnel matters, practices, or procedures related to specific**  
39 **employees, or other matters related to the commission's internal**  
40 **personnel practices and procedures;**

41           **(c) Current, threatened, or reasonably anticipated litigation;**

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

44           **(e) Accusing any person of a crime or formally censuring any**  
45 **person;**

46           **(f) Disclosure of trade secrets or commercial or financial**  
47 **information that is privileged or confidential;**

48           **(g) Disclosure of information of a personal nature where**  
49 **disclosure would constitute a clearly unwarranted invasion of personal**  
50 **privacy;**

51           **(h) Disclosure of investigatory records compiled for law**  
52 **enforcement purposes;**

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

56           **(j) Matters specifically exempted from disclosure by federal or**  
57 **state statute.**

58           **(6) If a meeting, or portion of a meeting, is closed pursuant to**  
59 **subdivision (5) of this subsection, the commission's legal counsel or**  
60 **designee shall certify that the meeting shall be closed and shall**  
61 **reference each relevant exempting provision. The commission shall**  
62 **keep minutes that fully and clearly describe all matters discussed in a**  
63 **meeting and shall provide a full and accurate summary of actions**  
64 **taken, and the reasons therefor, including a description of the views**  
65 **expressed. All documents considered in connection with an action shall**  
66 **be identified in such minutes. All minutes and documents of a closed**  
67 **meeting shall remain under seal, subject to release by a majority vote**  
68 **of the commission or order of a court of competent jurisdiction.**

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

73           **(1) Establishing the fiscal year of the commission;**

74           **(2) Providing reasonable standards and procedures:**

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

76           **(b) Governing any general or specific delegation of any authority**  
77 **or function of the commission;**

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

88           **(4) Establishing the titles, duties, and authority and reasonable**  
89 **procedures for the election of the officers of the commission;**

90           **(5) Providing reasonable standards and procedures for the**  
91 **establishment of the personnel policies and programs of the**  
92 **commission. Notwithstanding any civil service or other similar laws of**  
93 **any party state, the bylaws shall exclusively govern the personnel**  
94 **policies and programs of the commission; and**

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

99           **4. The commission shall publish its bylaws and rules, and any**  
100 **amendments thereto, in a convenient form on the website of the**  
101 **commission.**

102           **5. The commission shall maintain its financial records in**  
103 **accordance with the bylaws.**

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

106           **7. The commission shall have the following powers:**

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

110           **(2) To bring and prosecute legal proceedings or actions in the**

111 name of the commission; provided that, the standing of any licensing  
112 board to sue or be sued under applicable law shall not be affected;

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

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

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

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

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

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

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

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

138 (11) To borrow money;

139 (12) To appoint committees, including advisory committees  
140 comprised of administrators, state nursing regulators, state legislators  
141 or their representatives, consumer representatives, and other such  
142 interested persons;

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

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

146 (15) To perform such other functions as may be necessary or  
147 appropriate to achieve the purposes of this compact consistent with the

148 state regulation of nurse licensure and practice.

149           8. (1) The commission shall pay, or provide for the payment of,  
150 the reasonable expenses of its establishment, organization, and ongoing  
151 activities.

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

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

162           (4) The commission shall keep accurate accounts of all receipts  
163 and disbursements. The receipts and disbursements of the commission  
164 shall be subject to the audit and accounting procedures established  
165 under its bylaws. However, all receipts and disbursements of funds  
166 handled by the commission shall be audited yearly by a certified or  
167 licensed public accountant, and the report of the audit shall be  
168 included in and become part of the annual report of the commission.

169           9. (1) The administrators, officers, executive director, employees,  
170 and representatives of the commission shall be immune from suit and  
171 liability, either personally or in their official capacity, for any claim for  
172 damage to or loss of property, personal injury, or other civil liability  
173 caused by or arising out of any actual or alleged act, error, or omission  
174 that occurred, or that the person against whom the claim is made had  
175 a reasonable basis for believing occurred, within the scope of  
176 commission employment, duties, or responsibilities; provided that,  
177 nothing in this paragraph shall be construed to protect any such person  
178 from suit or liability for any damage, loss, injury, or liability caused by  
179 the intentional, willful, or wanton misconduct of that person.

180           (2) The commission shall defend any administrator, officer,  
181 executive director, employee, or representative of the commission in  
182 any civil action seeking to impose liability arising out of any actual or  
183 alleged act, error, or omission that occurred within the scope of  
184 commission employment, duties, or responsibilities, or that the person

185 against whom the claim is made had a reasonable basis for believing  
186 occurred within the scope of commission employment, duties, or  
187 responsibilities; provided that, nothing herein shall be construed to  
188 prohibit that person from retaining his or her own counsel; and  
189 provided further that the actual or alleged act, error, or omission did  
190 not result from that person's intentional, willful, or wanton misconduct.

191 (3) The commission shall indemnify and hold harmless any  
192 administrator, officer, executive director, employee, or representative  
193 of the commission for the amount of any settlement or judgment  
194 obtained against that person arising out of any actual or alleged act,  
195 error, or omission that occurred within the scope of commission  
196 employment, duties, or responsibilities, or that such person had a  
197 reasonable basis for believing occurred within the scope of commission  
198 employment, duties, or responsibilities; provided that, the actual or  
199 alleged act, error, or omission did not result from the intentional,  
200 willful, or wanton misconduct of that person.

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

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

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

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

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

15 4. The notice of proposed rulemaking shall include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

58           (3) Meet a deadline for the promulgation of an administrative

59 rule that is required by federal law or rule.

60       12. The commission may direct revisions to a previously adopted  
61 rule or amendment for purposes of correcting typographical errors,  
62 errors in format, errors in consistency, or grammatical errors. Public  
63 notice of any revisions shall be posted on the website of the  
64 commission. The revision shall be subject to challenge by any person  
65 for a period of thirty days after posting. The revision shall be  
66 challenged only on grounds that the revision results in a material  
67 change to a rule. A challenge shall be made in writing and delivered  
68 to the commission prior to the end of the notice period. If no challenge  
69 is made, the revision shall take effect without further action. If the  
70 revision is challenged, the revision shall not take effect without the  
71 approval of the commission.

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

4       (2) The commission shall be entitled to receive service of process  
5 in any proceeding that may affect the powers, responsibilities, or  
6 actions of the commission, and shall have standing to intervene in such  
7 a proceeding for all purposes. Failure to provide service of process in  
8 such proceeding to the commission shall render a judgment or order  
9 void as to the commission, this compact, or promulgated rules.

10       2. (1) If the commission determines that a party state has  
11 defaulted in the performance of its obligations or responsibilities under  
12 this compact or the promulgated rules, the commission shall:

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

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

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



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

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

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

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

44           **3. (1) Upon request by a party state, the commission shall**  
45 **attempt to resolve disputes related to the compact that arise among**  
46 **party states and between party and non-party states.**

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

49           **(3) In the event the commission cannot resolve disputes among**  
50 **party states arising under this compact:**

51           **(a) The party states shall submit the issues in dispute to an**  
52 **arbitration panel, which shall be comprised of individuals appointed by**  
53 **the compact administrator in each of the affected party states and an**  
54 **individual mutually agreed upon by the compact administrators of all**  
55 **the party states involved in the dispute.**

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

58           **4. (1) The commission, in the reasonable exercise of its**  
59 **discretion, shall enforce the provisions and rules of this compact.**

60           **(2) By majority vote, the commission may initiate legal action in**  
61 **the United States District Court for the District of Columbia or the**

62 federal district in which the commission has its principal offices  
63 against a party state that is in default to enforce compliance with the  
64 provisions of this compact and its promulgated rules and bylaws. The  
65 relief sought may include both injunctive relief and damages. In the  
66 event judicial enforcement is necessary, the prevailing party shall be  
67 awarded all costs of such litigation, including reasonable attorneys'  
68 fees.

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

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

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

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

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

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

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

27 7. Representatives of non-party states to this compact shall be

28 invited to participate in the activities of the commission on a nonvoting  
29 basis prior to the adoption of this compact by all states.

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

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

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

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

336.020. It shall be unlawful for any person to practice, to attempt to  
2 practice, or to offer to practice optometry, or to be employed by any person,  
3 corporation, partnership, association, or other entity that practice or attempts to  
4 practice without a license as an optometrist issued by the board. Nothing in this  
5 section shall be construed to prohibit a person licensed or registered under  
6 chapter 334 whose license is in good standing from acting within the scope of his  
7 or her practice or a person licensed as an optometrist in any state to serve as an  
8 expert witness in a civil, criminal, or administrative proceeding **or optometry**  
9 **students in any accredited optometry school from training in the**  
10 **practice of optometry under the direct supervision of a physician**  
11 **licensed under chapter 334 or an optometrist licensed under chapter**  
12 **336.**

338.202. 1. Notwithstanding any other provision of law to the  
2 contrary, unless the prescriber has specified on the prescription that  
3 dispensing a prescription for a maintenance medication in an initial  
4 amount followed by periodic refills is medically necessary, a

5 **pharmacist may exercise his or her professional judgment to dispense**  
6 **varying quantities of maintenance medication per fill up to the total**  
7 **number of dosage units as authorized by the prescriber on the original**  
8 **prescription, including any refills. Dispensing of the maintenance**  
9 **medication based on refills authorized by the prescriber on the**  
10 **prescription shall be limited to no more than a ninety-day supply of the**  
11 **medication, and the maintenance medication shall have been previously**  
12 **prescribed to the patient for at least a three-month period.**

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

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

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

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

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

21 5. The provisions of this section shall terminate on January 1, [2017]  
22 **2020.**

630.175. 1. No person admitted on a voluntary or involuntary basis to  
2 any mental health facility or mental health program in which people are civilly

3 detained pursuant to chapter 632 and no patient, resident or client of a  
4 residential facility or day program operated, funded or licensed by the department  
5 shall be subject to physical or chemical restraint, isolation or seclusion unless it  
6 is determined by the head of the facility, the attending licensed physician, or in  
7 the circumstances specifically set forth in this section, by an advanced practice  
8 registered nurse in a collaborative practice arrangement, **or a physician**  
9 **assistant or an assistant physician with a supervision agreement**, with  
10 the attending licensed physician that the chosen intervention is imminently  
11 necessary to protect the health and safety of the patient, resident, client or others  
12 and that it provides the least restrictive environment. An advanced practice  
13 registered nurse in a collaborative practice arrangement, **or a physician**  
14 **assistant or an assistant physician with a supervision agreement**, with  
15 the attending licensed physician may make a determination that the chosen  
16 intervention is necessary for patients, residents, or clients of facilities or  
17 programs operated by the department, in hospitals as defined in section 197.020  
18 that only provide psychiatric care and in dedicated psychiatric units of general  
19 acute care hospitals as hospitals are defined in section 197.020. Any  
20 determination made by the advanced practice registered nurse, **physician**  
21 **assistant, or assistant physician** shall be documented as required in  
22 subsection 2 of this section and reviewed in person by the attending licensed  
23 physician if the episode of restraint is to extend beyond:

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

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

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

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

35 2. Every use of physical or chemical restraint, isolation or seclusion and  
36 the reasons therefor shall be made a part of the clinical record of the patient,  
37 resident or client under the signature of the head of the facility, or the attending  
38 licensed physician, or the advanced practice registered nurse in a collaborative

39 practice arrangement, **or a physician assistant or an assistant physician**  
40 **with a supervision agreement**, with the attending licensed physician.

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

44 4. The use of security escort devices, including devices designed to restrict  
45 physical movement, which are used to maintain safety and security and to  
46 prevent escape during transport outside of a facility shall not be considered  
47 physical restraint within the meaning of this section. Individuals who have been  
48 civilly detained under sections 632.300 to 632.475 may be placed in security  
49 escort devices when transported outside of the facility if it is determined by the  
50 head of the facility, or the attending licensed physician, or the advanced practice  
51 registered nurse in a collaborative practice arrangement, **or a physician**  
52 **assistant or an assistant physician with a supervision agreement**, with  
53 the attending licensed physician that the use of security escort devices is  
54 necessary to protect the health and safety of the patient, resident, client, or other  
55 persons or is necessary to prevent escape. Individuals who have been civilly  
56 detained under sections 632.480 to 632.513 or committed under chapter 552 shall  
57 be placed in security escort devices when transported outside of the facility unless  
58 it is determined by the head of the facility, or the attending licensed physician,  
59 or the advanced practice registered nurse in a collaborative practice arrangement,  
60 **or a physician assistant or an assistant physician with a supervision**  
61 **agreement**, with the attending licensed physician that security escort devices  
62 are not necessary to protect the health and safety of the patient, resident, client,  
63 or other persons or is not necessary to prevent escape.

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

68 6. Orders issued under this section by the advanced practice registered  
69 nurse in a collaborative practice arrangement, **or a physician assistant or an**  
70 **assistant physician with a supervision agreement**, with the attending  
71 licensed physician shall be reviewed in person by the attending licensed physician  
72 of the facility within twenty-four hours or the next regular working day of the  
73 order being issued, and such review shall be documented in the clinical record of  
74 the patient, resident, or client.

75           7. For purposes of this subsection, "division" shall mean the division of  
76 developmental disabilities. Restraint or seclusion shall not be used in  
77 habilitation centers or community programs that serve persons with  
78 developmental disabilities that are operated or funded by the division unless such  
79 procedure is part of an emergency intervention system approved by the division  
80 and is identified in such person's individual support plan. Direct-care staff that  
81 serve persons with developmental disabilities in habilitation centers or  
82 community programs operated or funded by the division shall be trained in an  
83 emergency intervention system approved by the division when such emergency  
84 intervention system is identified in a consumer's individual support plan.

                  [335.300. 1. The party states find that:

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

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

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

11                   (4) New practice modalities and technology make  
12 compliance with individual state nurse licensure laws difficult and  
13 complex;

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

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

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

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

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

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

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

mean:  
2

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

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

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

11 (4) "Current significant investigative information":

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

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

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

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

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

31 (8) "Multistate licensing privilege", current, official  
32 authority from a remote state permitting the practice of nursing as



33 either a registered nurse or a licensed practical/vocational nurse in  
34 such party state. All party states have the authority, in accordance  
35 with existing state due process law, to take actions against the  
36 nurse's privilege such as: revocation, suspension, probation, or any  
37 other action that affects a nurse's authorization to practice;

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

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

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

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

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

48 (12) "Remote state action":

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

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

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

59 (14) "State practice laws", those individual party's state  
60 laws and regulations that govern the practice of nursing, define the  
61 scope of nursing practice, and create the methods and grounds for  
62 imposing discipline. State practice laws does not include the initial  
63 qualifications for licensure or requirements necessary to obtain and  
64 retain a license, except for qualifications or requirements of the  
65 home state.]

[335.310. 1. A license to practice registered nursing issued  
2 by a home state to a resident in that state will be recognized by  
3 each party state as authorizing a multistate licensure privilege to

4 practice as a registered nurse in such party state. A license to  
5 practice licensed practical/vocational nursing issued by a home  
6 state to a resident in that state will be recognized by each party  
7 state as authorizing a multistate licensure privilege to practice as  
8 a licensed practical/vocational nurse in such party state. In order  
9 to obtain or retain a license, an applicant must meet the home  
10 state's qualifications for licensure and license renewal as well as  
11 all other applicable state laws.

12 2. Party states may, in accordance with state due process  
13 laws, limit or revoke the multistate licensure privilege of any nurse  
14 to practice in their state and may take any other actions under  
15 their applicable state laws necessary to protect the health and  
16 safety of their citizens. If a party state takes such action, it shall  
17 promptly notify the administrator of the coordinated licensure  
18 information system. The administrator of the coordinated licensure  
19 information system shall promptly notify the home state of any  
20 such actions by remote states.

21 3. Every nurse practicing in a party state must comply with  
22 the state practice laws of the state in which the patient is located  
23 at the time care is rendered. In addition, the practice of nursing  
24 is not limited to patient care, but shall include all nursing practice  
25 as defined by the state practice laws of a party state. The practice  
26 of nursing will subject a nurse to the jurisdiction of the nurse  
27 licensing board and the courts, as well as the laws, in that party  
28 state.

29 4. This compact does not affect additional requirements  
30 imposed by states for advanced practice registered  
31 nursing. However, a multistate licensure privilege to practice  
32 registered nursing granted by a party state shall be recognized by  
33 other party states as a license to practice registered nursing if one  
34 is required by state law as a precondition for qualifying for  
35 advanced practice registered nurse authorization.

36 5. Individuals not residing in a party state shall continue  
37 to be able to apply for nurse licensure as provided for under the  
38 laws of each party state. However, the license granted to these  
39 individuals will not be recognized as granting the privilege to

40 practice nursing in any other party state unless explicitly agreed  
41 to by that party state.]

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

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

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

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

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

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

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

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

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

9 action. The administrator of the coordinated licensure information  
10 system shall promptly notify the home state of any such reports;

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

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

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

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

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

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

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

6 (2) Issue subpoenas for both hearings and investigations

7           which require the attendance and testimony of witnesses, and the  
8           production of evidence. Subpoenas issued by a nurse licensing  
9           board in a party state for the attendance and testimony of  
10          witnesses, and/or the production of evidence from another party  
11          state, shall be enforced in the latter state by any court of  
12          competent jurisdiction, according to the practice and procedure of  
13          that court applicable to subpoenas issued in proceedings pending  
14          before it. The issuing authority shall pay any witness fees, travel  
15          expenses, mileage, and other fees required by the service statutes  
16          of the state where the witnesses and evidence are located;

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

19                 (4) Promulgate uniform rules and regulations as provided  
20                 for in subsection 3 of section 335.335.]

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

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

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

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

22                5. Any personally identifiable information obtained by a

23 party state's licensing board from the coordinated licensure  
24 information system may not be shared with nonparty states or  
25 disclosed to other entities or individuals except to the extent  
26 permitted by the laws of the party state contributing the  
27 information.

28 6. Any information contributed to the coordinated licensure  
29 information system that is subsequently required to be expunged  
30 by the laws of the party state contributing that information shall  
31 also be expunged from the coordinated licensure information  
32 system.

33 7. The compact administrators, acting jointly with each  
34 other and in consultation with the administrator of the coordinated  
35 licensure information system, shall formulate necessary and proper  
36 procedures for the identification, collection, and exchange of  
37 information under this compact.]

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

4 2. The compact administrator of each party shall furnish to  
5 the compact administrator of each other party state any  
6 information and documents including, but not limited to, a uniform  
7 data set of investigations, identifying information, licensure data,  
8 and disclosable alternative program participation information to  
9 facilitate the administration of this compact.

10 3. Compact administrators shall have the authority to  
11 develop uniform rules to facilitate and coordinate implementation  
12 of this compact. These uniform rules shall be adopted by party  
13 states, under the authority invested under subsection 4 of section  
14 335.325.]

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

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

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

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

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

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

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

17 (1) The party states may submit the issues in dispute to an  
arbitration panel which will be comprised of an individual

18 appointed by the compact administrator in the home state, an  
 19 individual appointed by the compact administrator in the remote  
 20 states involved, and an individual mutually agreed upon by the  
 21 compact administrators of all the party states involved in the  
 22 dispute;

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

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

4 2. A person who is extended the privilege to practice in this  
 5 state pursuant to the nurse licensure compact is subject to  
 6 discipline by the board, as set forth in this chapter, for violation of  
 7 this chapter or the rules and regulations promulgated herein. A  
 8 person extended the privilege to practice in this state pursuant to  
 9 the nurse licensure compact shall be subject to adhere to all  
 10 requirements of this chapter, as if such person were originally  
 11 licensed in this state.

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

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

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

Section B. The repeal of sections 335.300, 335.305, 335.310, 335.315,  
 2 335.320, 335.325, 335.330, 335.335, 335.340, 335.345, 335.350, and 335.355 of this  
 3 act, and the enactment of sections 335.360 to 335.415 of this act shall become  
 4 effective on December 31, 2018, or upon the enactment of sections 335.360,  
 5 335.365, 335.370, 335.375, 335.380, 335.385, 335.390, 335.395, 335.400, 335.405,  
 6 335.410, and 335.415, of this act by no less than twenty-six states and notification  
 7 of such enactment to the revisor of statutes by the Interstate Commission of  
 8 Nurse Licensure Compact Administrators, whichever occurs first.

✓