
HOUSE BILL 1114

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By Representatives Leavitt, Ybarra, Schmidt, Ryu, Reed, Macri, Doglio, Simmons, Ormsby, and Hill

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1 AN ACT Relating to the respiratory care interstate compact;
2 adding a new chapter to Title 18 RCW; and providing a contingent
3 effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** TITLE AND PURPOSE. (1) The purpose of this
6 compact is to facilitate the interstate practice of respiratory
7 therapy with the goal of improving public access to respiratory
8 therapy services by providing respiratory therapists licensed in a
9 member state the ability to practice in other member states. The
10 compact preserves the regulatory authority of states to protect
11 public health and safety through the current system of state
12 licensure.

13 (2) This compact is designed to achieve the following objectives:

14 (a) Increase public access to respiratory therapy services by
15 creating a responsible, streamlined pathway for licensees to practice
16 in member states with the goal of improving outcomes for patients;

17 (b) Enhance states' ability to protect the public's health and
18 safety;

19 (c) Promote the cooperation of member states in regulating the
20 practice of respiratory therapy within those member states;

1 (d) Ease administrative burdens on states by encouraging the
2 cooperation of member states in regulating multistate respiratory
3 therapy practice;

4 (e) Support relocating active military members and their spouses;
5 and

6 (f) Promote mobility and address workforce shortages.

7 NEW SECTION. **Sec. 2.** DEFINITIONS. As used in this compact,
8 unless the context requires otherwise, the following definitions
9 shall apply:

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

13 (2) "Adverse action" means any administrative, civil, equitable,
14 or criminal action permitted by a state's laws which is imposed by
15 any state authority with regulatory authority over respiratory
16 therapists, such as license denial, censure, revocation, suspension,
17 probation, monitoring of the licensee, or restriction on the
18 licensee's practice, not including participation in an alternative
19 program.

20 (3) "Alternative program" means a nondisciplinary monitoring or
21 practice remediation process applicable to a respiratory therapist
22 approved by any state authority with regulatory authority over
23 respiratory therapists. This includes, but is not limited to,
24 programs to which licensees with substance abuse or addiction issues
25 are referred in lieu of adverse action.

26 (4) "Charter member states" means those member states that were
27 the first seven states to enact the compact into the laws of their
28 state.

29 (5) "Commission" or "respiratory care interstate compact
30 commission" means the government instrumentality and body politic
31 whose membership consists of all member states that have enacted the
32 compact.

33 (6) "Commissioner" means the individual appointed by a member
34 state to serve as the member of the commission for that member state.

35 (7) "Compact" means the respiratory care interstate compact.

36 (8) "Compact privilege" means the authorization granted by a
37 remote state to allow a licensee from another member state to
38 practice as a respiratory therapist in the remote state under the
39 remote state's laws and rules. The practice of respiratory therapy

1 occurs in the member state where the patient is located at the time
2 of the patient encounter.

3 (9) "Criminal background check" means the submission by the
4 member state of fingerprints or other biometric-based information on
5 license applicants at the time of initial licensing for the purpose
6 of obtaining that applicant's criminal history record information, as
7 defined in 28 C.F.R. Sec. 20.3(d) or successor provision, from the
8 federal bureau of investigation and the state's criminal history
9 record repository, as defined in 28 C.F.R. Sec. 20.3(f) or successor
10 provision.

11 (10) "Data system" means the commission's repository of
12 information about licensees as further set forth in section 8 of this
13 act.

14 (11) "Domicile" means the jurisdiction which is the licensee's
15 principal home for legal purposes.

16 (12) "Encumbered license" means a license that a state's
17 respiratory therapy licensing authority has limited in any way.

18 (13) "Executive committee" means a group of directors elected or
19 appointed to act on behalf of, and within the powers granted to them
20 by, the commission.

21 (14) "Home state," except as set forth in section 5 of this act,
22 means the member state that is the licensee's primary domicile.

23 (15) "Home state license" means an active license to practice
24 respiratory therapy in a home state that is not an encumbered
25 license.

26 (16) "Jurisprudence requirement" means an assessment of an
27 individual's knowledge of the state laws and regulations governing
28 the practice of respiratory therapy in such state.

29 (17) "Licensee" means an individual who currently holds an
30 authorization from the state to practice as a respiratory therapist.

31 (18) "Member state" means a state that has enacted the compact
32 and been admitted to the commission in accordance with the provisions
33 herein and commission rules.

34 (19) "Model compact" means the model for the respiratory care
35 interstate compact on file with the council of state governments or
36 other entity as designated by the commission.

37 (20) "Remote state" means a member state where a licensee is
38 exercising or seeking to exercise the compact privilege.

39 (21) "Respiratory therapist" or "respiratory care practitioner"
40 means an individual who holds a credential issued by the national

1 board for respiratory care (or its successor) and holds a license in
2 a state to practice respiratory therapy. For purposes of this
3 compact, any other title or status adopted by a state to replace the
4 term "respiratory therapist" or "respiratory care practitioner" shall
5 be deemed synonymous with "respiratory therapist" and shall confer
6 the same rights and responsibilities to the licensee under the
7 provisions of this compact at the time of its enactment.

8 (22) "Respiratory therapy," "respiratory therapy practice,"
9 "respiratory care," "the practice of respiratory care," and "the
10 practice of respiratory therapy" means the care and services provided
11 by or under the direction and supervision of a respiratory therapist
12 or respiratory care practitioner.

13 (23) "Respiratory therapy licensing authority" means the agency,
14 board, or other body of a state that is responsible for licensing and
15 regulation of respiratory therapists.

16 (24) "Rule" means a regulation promulgated by an entity that has
17 the force and effect of law.

18 (25) "Scope of practice" means the procedures, actions, and
19 processes a respiratory therapist licensed in a state or practicing
20 under a compact privilege in a state is permitted to undertake in
21 that state and the circumstances under which the respiratory
22 therapist is permitted to undertake those procedures, actions, and
23 processes. Such procedures, actions, and processes, and the
24 circumstances under which they may be undertaken, may be established
25 through means including, but not limited to, statute, regulations,
26 case law, and other processes available to the state respiratory
27 therapy licensing authority or other government agency.

28 (26) "Significant investigative information" means information,
29 records, and documents received or generated by a state respiratory
30 therapy licensing authority pursuant to an investigation for which a
31 determination has been made that there is probable cause to believe
32 that the licensee has violated a statute or regulation that is
33 considered more than a minor infraction for which the state
34 respiratory therapy licensing authority could pursue adverse action
35 against the licensee.

36 (27) "State" means any state, commonwealth, district, or
37 territory of the United States.

1 NEW SECTION. **Sec. 3.** STATE PARTICIPATION IN THIS COMPACT. (1)

2 In order to participate in this compact and thereafter continue as a
3 member state, a member state shall:

4 (a) Enact a compact that is not materially different from the
5 model compact;

6 (b) License respiratory therapists;

7 (c) Participate in the commission's data system;

8 (d) Have a mechanism in place for receiving and investigating
9 complaints against licensees and compact privilege holders;

10 (e) Notify the commission, in compliance with the terms of this
11 compact and commission rules, of any adverse action against a
12 licensee, a compact privilege holder, or a license applicant;

13 (f) Notify the commission, in compliance with the terms of this
14 compact and commission rules, of the existence of significant
15 investigative information;

16 (g) Comply with the rules of the commission;

17 (h) Grant the compact privilege to a holder of an active home
18 state license and otherwise meet the applicable requirements of
19 section 4 of this act in a member state; and

20 (i) Complete a criminal background check for each new licensee at
21 the time of initial licensure.

22 (2) Where expressly authorized or permitted by federal law,
23 whether such federal law is in effect prior to, at, or after the time
24 of a member state's enactment of this compact, a member state's
25 enactment of this compact shall hereby authorize the member state's
26 respiratory therapy licensing authority to perform criminal
27 background checks as defined herein. The absence of such a federal
28 law as described in this subsection shall not prevent or preclude
29 such authorization where it may be derived or granted through means
30 other than the enactment of this compact.

31 (3) Nothing in this compact prohibits a member state from
32 charging a fee for granting and renewing the compact privilege.

33 NEW SECTION. **Sec. 4.** COMPACT PRIVILEGE. (1) To exercise the

34 compact privilege under the terms and provisions of the compact, the
35 licensee shall:

36 (a) Hold and maintain an active home state license as a
37 respiratory therapist;

38 (b) Hold and maintain an active credential from the national
39 board for respiratory care (or its successor) that would qualify them

1 for licensure in the remote state in which they are seeking the
2 privilege;

3 (c) Have not had any adverse action against a license within the
4 previous two years;

5 (d) Notify the commission that the licensee is seeking the
6 compact privilege within a remote state(s);

7 (e) Pay any applicable fees, including any state and commission
8 fees and renewal fees, for the compact privilege;

9 (f) Meet any jurisprudence requirements established by the remote
10 state in which the licensee is seeking a compact privilege;

11 (g) Report to the commission adverse action taken by any
12 nonmember state within 30 days from the date the adverse action is
13 taken;

14 (h) Report to the commission, when applying for a compact
15 privilege, the address of the licensee's domicile and thereafter
16 promptly report to the commission any change in the address of the
17 licensee's domicile within 30 days of the effective date of the
18 change in address; and

19 (i) Consent to accept service of process by mail at the
20 licensee's domicile on record with the commission with respect to any
21 action brought against the licensee by the commission or a member
22 state, and consent to accept service of a subpoena by mail at the
23 licensee's domicile on record with the commission with respect to any
24 action brought or investigation conducted by the commission or a
25 member state.

26 (2) The compact privilege is valid until the expiration date or
27 revocation of the home state license unless terminated pursuant to
28 adverse action. The licensee must comply with all of the requirements
29 of subsection (1) of this section to maintain the compact privilege
30 in a remote state. If those requirements are met, no adverse actions
31 are taken, and the licensee has paid any applicable compact privilege
32 renewal fees, then the licensee will maintain the licensee's compact
33 privilege.

34 (3) A licensee providing respiratory therapy in a remote state
35 under the compact privilege shall function within the scope of
36 practice authorized by the remote state for the type of respiratory
37 therapist license the licensee holds. Such procedures, actions,
38 processes, and the circumstances under which they may be undertaken
39 may be established through means including, but not limited to,
40 statute, regulations, case law, and other processes available to the

1 state respiratory therapy licensing authority or other government
2 agency.

3 (4) If a licensee's compact privilege in a remote state is
4 removed by the remote state, the individual shall lose or be
5 ineligible for the compact privilege in that remote state until the
6 compact privilege is no longer limited or restricted by that state.

7 (5) If a home state license is encumbered, the licensee shall
8 lose the compact privilege in all remote states until the following
9 occur:

10 (a) The home state license is no longer encumbered; and

11 (b) Two years have elapsed from the date on which the license is
12 no longer encumbered due to the adverse action.

13 (6) Once a licensee with a restricted or limited license meets
14 the requirements of subsection (5)(a) and (b) of this section, the
15 licensee must also meet the requirements of subsection (1) of this
16 section to obtain a compact privilege in a remote state.

17 NEW SECTION. **Sec. 5.** ACTIVE MILITARY MEMBER OR THEIR SPOUSE.

18 (1) An active military member, or their spouse, shall designate a
19 home state where the individual has a current license in good
20 standing. The individual may retain the home state designation during
21 the period the service member is on active duty.

22 (2) An active military member and their spouse shall not be
23 required to pay to the commission for a compact privilege any fee
24 that may otherwise be charged by the commission. If a remote state
25 chooses to charge a fee for a compact privilege, it may choose to
26 charge a reduced fee or no fee to an active military member and their
27 spouse for a compact privilege.

28 NEW SECTION. **Sec. 6.** ADVERSE ACTIONS. (1) A member state in
29 which a licensee is licensed shall have authority to impose adverse
30 action against the license issued by that member state.

31 (2) A member state may take adverse action based on significant
32 investigative information of a remote state or the home state, so
33 long as the member state follows its own procedures for imposing
34 adverse action.

35 (3) Nothing in this compact shall override a member state's
36 decision that participation in an alternative program may be used in
37 lieu of adverse action and that such participation shall remain
38 nonpublic if required by the member state's laws.

1 (4) (a) A remote state shall have the authority to:

2 (i) Take adverse actions as set forth herein against a licensee's
3 compact privilege in that state;

4 (ii) Issue subpoenas for both hearings and investigations that
5 require the attendance and testimony of witnesses, and the production
6 of evidence.

7 (A) Subpoenas may be issued by a respiratory therapy licensing
8 authority in a member state for the attendance and testimony of
9 witnesses and the production of evidence.

10 (B) Subpoenas issued by a respiratory therapy licensing authority
11 in a member state for the attendance and testimony of witnesses shall
12 be enforced in the latter state by any court of competent
13 jurisdiction in the latter state, according to the practice and
14 procedure of that court applicable to subpoenas issued in proceedings
15 pending before it.

16 (C) Subpoenas issued by a respiratory therapy licensing authority
17 in a member state for production of evidence from another member
18 state shall be enforced in the latter state, according to the
19 practice and procedure of that court applicable to subpoenas issued
20 in the proceedings pending before it.

21 (D) The issuing authority shall pay any witness fees, travel
22 expenses, mileage, and other fees required by the service statutes of
23 the state where the witnesses or evidence are located; and

24 (iii) Unless otherwise prohibited by state law, recover from the
25 licensee the costs of investigations and disposition of cases
26 resulting from any adverse action taken against that licensee.

27 (b) Notwithstanding (a)(ii) of this subsection, a member state
28 may not issue a subpoena to gather evidence of conduct in another
29 member state that is lawful in such other member state for the
30 purpose of taking adverse action against a licensee's compact
31 privilege or application for a compact privilege in that member
32 state.

33 (c) Nothing in this compact authorizes a member state to impose
34 discipline against a respiratory therapist's compact privilege in
35 that member state for the individual's otherwise lawful practice in
36 another state.

37 (5) Joint investigations.

38 (a) In addition to the authority granted to a member state by its
39 respective respiratory therapy practice act or other applicable state
40 law, a member state may participate with other member states in joint

1 investigations of licensees, provided, however, that a member state
2 receiving such a request has no obligation to respond to any subpoena
3 issued regarding an investigation of conduct or practice that was
4 lawful in a member state at the time it was undertaken.

5 (b) Member states shall share any significant investigative
6 information, litigation, or compliance materials in furtherance of
7 any joint or individual investigation initiated under the compact. In
8 sharing such information between member state respiratory therapy
9 licensing authorities, all information obtained shall be kept
10 confidential, except as otherwise mutually agreed upon by the sharing
11 and receiving member state(s).

12 (6) Nothing in this compact may permit a member state to take any
13 adverse action against a licensee or holder of a compact privilege
14 for conduct or practice that was legal in the member state at the
15 time it was undertaken.

16 (7) Nothing in this compact may permit a member state to take
17 disciplinary action against a licensee or holder of a compact
18 privilege for conduct or practice that was legal in the member state
19 at the time it was undertaken.

20 NEW SECTION. **Sec. 7.** ESTABLISHMENT OF THE RESPIRATORY CARE
21 INTERSTATE COMPACT COMMISSION. (1) The compact member states hereby
22 create and establish a joint government agency whose membership
23 consists of all member states that have enacted the compact known as
24 the respiratory care interstate compact commission. The commission is
25 an instrumentality of the compact member states acting jointly and
26 not an instrumentality of any one state. The commission shall come
27 into existence on or after the effective date of the compact, as set
28 forth in section 11 of this act.

29 (2) Membership, voting, and meetings.

30 (a) Each member state shall have and be limited to one
31 commissioner selected by that member state's respiratory therapy
32 licensing authority.

33 (b) The commissioner shall be an administrator or their
34 designated staff member of the member state's respiratory therapy
35 licensing authority.

36 (c) The commission shall by rule or bylaw establish a term of
37 office for commissioners and may by rule or bylaw establish term
38 limits.

1 (d) The commission may recommend to a member state the removal or
2 suspension of any commissioner from office.

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

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

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

12 (h) The commission shall meet at least once during each calendar
13 year. Additional meetings may be held as set forth in the bylaws.

14 (3) The commission shall have the following powers:

15 (a) Establish and amend the fiscal year of the commission;

16 (b) Establish and amend bylaws and policies including, but not
17 limited to, a code of conduct and conflict of interest;

18 (c) Establish and amend rules, which shall be binding in all
19 member states;

20 (d) Maintain its financial records in accordance with the bylaws;

21 (e) Meet and take such actions as are consistent with the
22 provisions of this compact, the commission's rules, and the bylaws;

23 (f) Initiate and conduct legal proceedings or actions in the name
24 of the commission, provided that the standing of any respiratory
25 therapy licensing authority to sue or be sued under applicable law
26 shall not be affected;

27 (g) Maintain and certify records and information provided to a
28 member state as the authenticated business records of the commission,
29 and designate an agent to do so on the commission's behalf;

30 (h) Purchase and maintain insurance and bonds;

31 (i) Accept or contract for services of personnel including, but
32 not limited to, employees of a member state;

33 (j) Conduct an annual financial review;

34 (k) Hire employees, elect or appoint officers, fix compensation,
35 define duties, grant such individuals appropriate authority to carry
36 out the purposes of the compact, and establish the commission's
37 personnel policies and programs relating to conflicts of interest,
38 qualifications of personnel, and other related personnel matters;

39 (l) Assess and collect fees;

1 (m) Accept any and all appropriate gifts, donations, grants of
2 money, other sources of revenue, equipment, supplies, materials, and
3 services, and receive, utilize, and dispose of the same, provided
4 that at all times:

5 (i) The commission shall avoid any appearance of impropriety; and

6 (ii) The commission shall avoid any appearance of conflict of
7 interest;

8 (n) Lease, purchase, retain, own, hold, improve, or use any
9 property, real, personal, or mixed, or any undivided interest
10 therein;

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

13 (p) Establish a budget and make expenditures;

14 (q) Borrow money in a fiscally responsible manner;

15 (r) Appoint committees, including standing committees, composed
16 of commissioners, state regulators, state legislators or their
17 representatives, and consumer representatives, and such other
18 interested persons as may be designated in this compact and the
19 bylaws;

20 (s) Provide and receive information from, and cooperate with, law
21 enforcement agencies;

22 (t) Establish and elect an executive committee, including a
23 chair, vice chair, secretary, treasurer, and such other offices as
24 the commission shall establish by rule or bylaw;

25 (u) Enter into contracts or arrangements for the management of
26 the affairs of the commission;

27 (v) Determine whether a state's adopted language is materially
28 different from the model compact language such that the state would
29 not qualify for participation in the compact; and

30 (w) Perform such other functions as may be necessary or
31 appropriate to achieve the purposes of this compact.

32 (4) The executive committee.

33 (a) The executive committee shall have the power to act on behalf
34 of the commission according to the terms of this compact. The powers,
35 duties, and responsibilities of the executive committee shall
36 include:

37 (i) Overseeing the day-to-day activities of the administration of
38 the compact, including enforcement and compliance with the provisions
39 of the compact, its rules and bylaws, and other such duties as deemed
40 necessary;

1 (ii) Recommending to the commission changes to the rules or
2 bylaws, changes to this compact legislation, fees charged to compact
3 member states, fees charged to licensees, and other fees;

4 (iii) Ensuring compact administration services are appropriately
5 provided, including by contract;

6 (iv) Preparing and recommending the budget;

7 (v) Maintaining financial records on behalf of the commission;

8 (vi) Monitoring compact compliance of member states and providing
9 compliance reports to the commission;

10 (vii) Establishing additional committees as necessary;

11 (viii) Exercising the powers and duties of the commission during
12 the interim between commission meetings, except for adopting or
13 amending rules, adopting or amending bylaws, and exercising any other
14 powers and duties expressly reserved to the commission by rule or
15 bylaw; and

16 (ix) Performing other duties as provided in the rules or bylaws
17 of the commission.

18 (b) The executive committee shall be composed of up to nine
19 members, as further set forth in the bylaws of the commission:

20 (i) Seven voting members who are elected by the commission from
21 the current membership of the commission; and

22 (ii) Two ex officio, nonvoting members.

23 (c) The commission may remove any member of the executive
24 committee as provided in the commission's bylaws.

25 (d) The executive committee shall meet at least annually.

26 (i) Executive committee meetings shall be open to the public,
27 except that the executive committee may meet in a closed, nonpublic
28 meeting as provided in subsection (6)(d) of this section;

29 (ii) The executive committee shall give advance notice of its
30 meetings, posted on its website and as determined to provide notice
31 to persons with an interest in the business of the commission; and

32 (iii) The executive committee may hold a special meeting in
33 accordance with subsection (6)(b) of this section.

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

36 (6) Meetings of the commission.

37 (a) All meetings of the commission that are not closed pursuant
38 to (d) of this subsection shall be open to the public. Notice of
39 public meetings shall be posted on the commission's website at least
40 30 days prior to the public meeting.

1 (b) Notwithstanding (a) of this subsection, the commission may
2 convene an emergency public meeting by providing at least 24 hours
3 prior notice on the commission's website, and any other means as
4 provided in the commission's rules, for any of the reasons it may
5 dispense with notice of proposed rule making under section 9(7) of
6 this act. The commission's legal counsel shall certify that one of
7 the reasons justifying an emergency public meeting has been met.

8 (c) Notice of all commission meetings shall provide the time,
9 date, and location of the meeting, and if the meeting is to be held
10 or accessible via telecommunication, videoconference, or other
11 electronic means, the notice shall include the mechanism for access
12 to the meeting.

13 (d) The commission or the executive committee may convene in a
14 closed, nonpublic meeting for the commission or executive committee
15 to receive or solicit legal advice or to discuss:

16 (i) Noncompliance of a member state with its obligations under
17 the compact;

18 (ii) The employment, compensation, discipline, or other matters,
19 practices, or procedures related to specific employees;

20 (iii) Current or threatened discipline of a licensee or compact
21 privilege holder by the commission or by a member state's respiratory
22 therapy licensing authority;

23 (iv) Current, threatened, or reasonably anticipated litigation;

24 (v) Negotiation of contracts for the purchase, lease, or sale of
25 goods, services, or real estate;

26 (vi) Accusing any person of a crime or formally censuring any
27 person;

28 (vii) Trade secrets or commercial or financial information that
29 is privileged or confidential;

30 (viii) Information of a personal nature where disclosure would
31 constitute a clearly unwarranted invasion of personal privacy;

32 (ix) Investigative records compiled for law enforcement purposes;

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

37 (xi) Legal advice;

38 (xii) Matters specifically exempted from disclosure by federal or
39 member state law; or

40 (xiii) Other matters as promulgated by the commission by rule.

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

5 (f) The commission shall keep minutes in accordance with
6 commission rules and bylaws. All documents considered in connection
7 with an action shall be identified in such minutes. All minutes and
8 documents of a closed meeting shall remain under seal, subject to
9 release only by a majority vote of the commission or order of a court
10 of competent jurisdiction.

11 (7) Financing of the commission.

12 (a) The commission shall pay, or provide for the payment of, the
13 reasonable expenses of its establishment, organization, and ongoing
14 activities.

15 (b) The commission may accept any and all appropriate revenue
16 sources as provided herein.

17 (c) The commission may levy on and collect an annual assessment
18 from each member state and impose fees on licensees of member states
19 to whom it grants a compact privilege to cover the cost of the
20 operations and activities of the commission and its staff. The
21 aggregate annual assessment amount for member states, if any, shall
22 be allocated based upon a formula that the commission shall
23 promulgate by rule.

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

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

36 (8) Qualified immunity, defense, and indemnification.

37 (a) Nothing herein shall be construed as a limitation on the
38 liability of any licensee for professional malpractice or misconduct,
39 which shall be governed solely by any other applicable state laws.

1 (b) The member states, commissioners, officers, executive
2 directors, employees, and agents of the commission shall be immune
3 from suit and liability, both personally and in their official
4 capacity, for any claim for damage to or loss of property or personal
5 injury or other civil liability caused by or arising out of any
6 actual or alleged act, error, or omission that occurred, or that the
7 person against whom the claim is made had a reasonable basis for
8 believing occurred within the scope of commission employment, duties,
9 or responsibilities; provided that nothing in this subsection shall
10 be construed to protect any such person from suit or liability for
11 any damage, loss, injury, or liability caused by the intentional or
12 willful or wanton misconduct of that person. The procurement of
13 insurance of any type by the commission shall not in any way
14 compromise or limit the immunity granted hereunder.

15 (c) The commission shall defend any commissioner, officer,
16 executive director, employee, and agent of the commission in any
17 civil action seeking to impose liability arising out of any actual or
18 alleged act, error, or omission that occurred within the scope of
19 commission employment, duties, or responsibilities, or as determined
20 by the commission that the person against whom the claim is made had
21 a reasonable basis for believing occurred within the scope of
22 commission employment, duties, or responsibilities; provided that
23 nothing herein shall be construed to prohibit that person from
24 retaining their own counsel at their own expense; and provided
25 further, that the actual or alleged act, error, or omission did not
26 result from that person's intentional or willful or wanton
27 misconduct.

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

38 (e) Nothing in this compact shall be interpreted to waive or
39 otherwise abrogate a member state's state action immunity or state
40 action affirmative defense with respect to antitrust claims under the

1 Sherman act, Clayton act, or any other state or federal antitrust or
2 anticompetitive law or regulation.

3 (f) Nothing in this compact shall be construed to be a waiver of
4 sovereign immunity by the member states or by the commission.

5 NEW SECTION. **Sec. 8.** DATA SYSTEMS. (1) The commission shall
6 provide for the development, maintenance, operation, and utilization
7 of a coordinated database and reporting system containing licensure,
8 adverse action, and the presence of significant investigative
9 information.

10 (2) Notwithstanding any other provision of state law to the
11 contrary, a member state shall submit a uniform data set to the data
12 system as required by the rules of the commission including, but not
13 limited to:

14 (a) Identifying information;

15 (b) Licensure data;

16 (c) Adverse actions against a licensee, license applicant, or
17 compact privilege holder and information related thereto;

18 (d) Nonconfidential information related to alternative program
19 participation, the beginning and ending dates of such participation,
20 and other information related to such participation not made
21 confidential under member state law;

22 (e) Any denial of application for licensure, and the reason(s)
23 for such denial;

24 (f) The presence of current significant investigative
25 information; and

26 (g) Other information that may facilitate the administration of
27 this compact or the protection of the public, as determined by the
28 rules of the commission.

29 (3) No member state shall submit any information which
30 constitutes criminal history record information, as defined by
31 applicable federal law, to the data system established hereunder.

32 (4) The records and information provided to a member state
33 pursuant to this compact or through the data system, when certified
34 by the commission or an agent thereof, shall constitute the
35 authenticated business records of the commission, and shall be
36 entitled to any associated hearsay exception in any relevant
37 judicial, quasi-judicial, or administrative proceedings in a member
38 state.

1 (5) Significant investigative information pertaining to a
2 licensee in any member state will only be available to other member
3 states.

4 (6) It is the responsibility of the member states to report any
5 adverse action against a licensee and to monitor the database to
6 determine whether adverse action has been taken against a licensee.
7 Adverse action information pertaining to a licensee in any member
8 state will be available to any other member state.

9 (7) Member states contributing information to the data system may
10 designate information that may not be shared with the public without
11 the express permission of the contributing state.

12 (8) Any information submitted to the data system that is
13 subsequently expunged pursuant to federal law or the laws of the
14 member state contributing the information shall be removed from the
15 data system.

16 NEW SECTION. **Sec. 9.** RULE MAKING. (1) The commission shall
17 promulgate reasonable rules in order to effectively and efficiently
18 implement and administer the purposes and provisions of the compact.
19 A rule shall be invalid and have no force or effect only if a court
20 of competent jurisdiction holds that the rule is invalid because the
21 commission exercised its rule-making authority in a manner that is
22 beyond the scope and purposes of the compact, or the powers granted
23 hereunder, or based upon another applicable standard of review.

24 (2) For purposes of the compact, the rules of the commission
25 shall have the force of law in each member state.

26 (3) The commission shall exercise its rule-making powers pursuant
27 to the criteria set forth in this section and the rules adopted
28 thereunder. Rules shall become binding as of the date specified in
29 each rule.

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

35 (5) Rules shall be adopted at a regular or special meeting of the
36 commission.

37 (6) Prior to adoption of a proposed rule, the commission shall
38 hold a public hearing and allow persons to provide oral and written
39 comments, data, facts, opinions, and arguments.

1 (7) Prior to adoption of a proposed rule by the commission, and
2 at least 30 days in advance of the meeting at which the commission
3 will hold a public hearing on the proposed rule, the commission shall
4 provide a notice of proposed rule making:

5 (a) On the website of the commission or other publicly accessible
6 platform;

7 (b) To persons who have requested notice of the commission's
8 notices of proposed rule making; and

9 (c) In such other way(s) as the commission may by rule specify.

10 (8) The notice of proposed rule making shall include:

11 (a) The time, date, and location of the public hearing at which
12 the commission will hear public comments on the proposed rule and, if
13 different, the time, date, and location of the meeting where the
14 commission will consider and vote on the proposed rule;

15 (b) If the hearing is held via telecommunication,
16 videoconference, or other electronic means, the mechanism for access
17 to the hearing in the notice of proposed rule making;

18 (c) The text of the proposed rule and the reason therefor;

19 (d) A request for comments on the proposed rule from any
20 interested person; and

21 (e) The manner in which interested persons may submit written
22 comments.

23 (9) All hearings will be recorded. A copy of the recording and
24 all written comments and documents received by the commission in
25 response to the proposed rule shall be available to the public.

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

29 (11) The commission shall, by majority vote of all commissioners,
30 take final action on the proposed rule based on the rule-making
31 record and the full text of the rule.

32 (a) The commission may adopt changes to the proposed rule
33 provided the changes are consistent with the original purpose of the
34 proposed rule.

35 (b) The commission shall provide an explanation of the reasons
36 for substantive changes made to the proposed rule as well as reasons
37 for substantive changes not made that were recommended by commenters.

38 (c) The commission shall determine a reasonable effective date
39 for the rule. Except for an emergency as provided in subsection (12)
40 of this section, the effective date of the rule shall be no sooner

1 than 30 days after issuing the notice that it adopted or amended the
2 rule.

3 (12) Upon determination that an emergency exists, the commission
4 may consider and adopt an emergency rule with 24 hours' notice, and
5 with opportunity to comment, provided that the usual rule-making
6 procedures provided in the compact and in this section shall be
7 retroactively applied to the rule as soon as reasonably possible, in
8 no event later than 90 days after the effective date of the rule. For
9 the purposes of this provision, an emergency rule is one that must be
10 adopted immediately in order to:

- 11 (a) Meet an imminent threat to public health, safety, or welfare;
- 12 (b) Prevent a loss of commission or member state funds;
- 13 (c) Meet a deadline for the promulgation of a rule that is
14 established by federal law or rule; or
- 15 (d) Protect public health and safety.

16 (13) The commission or an authorized committee of the commission
17 may direct revisions to a previously adopted rule for purposes of
18 correcting typographical errors, errors in format, errors in
19 consistency, or grammatical errors. Public notice of any revisions
20 shall be posted on the website of the commission. The revision shall
21 be subject to challenge by any person for a period of 30 days after
22 posting. The revision may be challenged only on grounds that the
23 revision results in a material change to a rule. A challenge shall be
24 made in writing and delivered to the commission prior to the end of
25 the notice period. If no challenge is made, the revision will take
26 effect without further action. If the revision is challenged, the
27 revision may not take effect without the approval of the commission.

28 (14)(a) No member state's rule-making process or procedural
29 requirements shall apply to the commission.

30 (b) The commission shall have no authority over any member
31 state's rule-making process or procedural requirements that do not
32 pertain to the compact.

33 (15) Nothing in this compact, nor any rule or regulation of the
34 commission, shall be construed to limit, restrict, or in any way
35 reduce the ability of a member state to enact and enforce laws,
36 regulations, or other rules related to the practice of respiratory
37 therapy in that state, where those laws, regulations, or other rules
38 are not inconsistent with the provisions of this compact.

1 NEW SECTION. **Sec. 10.** OVERSIGHT, DISPUTE RESOLUTION, AND
2 ENFORCEMENT. (1) Oversight.

3 (a) The executive and judicial branches of state government in
4 each member state shall enforce this compact and take all actions
5 necessary and appropriate to implement the compact.

6 (b) 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
9 is located. The commission may waive venue and jurisdictional
10 defenses to the extent it adopts or consents to participate in
11 alternative dispute resolution proceedings. Nothing herein shall
12 affect or limit the selection or propriety of venue in any action
13 against a licensee for professional malpractice, misconduct, or any
14 such similar matter.

15 (c) The commission shall be entitled to receive service of
16 process in any proceeding regarding the enforcement or interpretation
17 of the compact and shall have standing to intervene in such a
18 proceeding for all purposes. Failure to provide the commission
19 service of process shall render a judgment or order void as to the
20 commission, this compact, or promulgated rules.

21 (2) Default, technical assistance, and termination.

22 (a) If the commission determines that a member state has
23 defaulted in the performance of its obligations or responsibilities
24 under this compact or the promulgated rules, the commission shall
25 provide written notice to the defaulting state. The notice of default
26 shall describe the default, the proposed means of curing the default,
27 and any other action that the commission may take, and shall offer
28 training and specific technical assistance regarding the default.

29 (b) The commission shall provide a copy of the notice of default
30 to the other member states.

31 (3) If a state in default fails to cure the default, the
32 defaulting state may be terminated from the compact upon an
33 affirmative vote of a majority of the commissioners of the member
34 states, and all rights, privileges, and benefits conferred on that
35 state by this compact may be terminated on the effective date of
36 termination. A cure of the default does not relieve the offending
37 state of obligations or liabilities incurred during the period of
38 default.

39 (4) Termination of membership in the compact shall be imposed
40 only after all other means of securing compliance have been

1 exhausted. Notice of intent to suspend or terminate shall be given by
2 the commission to the governor, the majority and minority leaders of
3 the defaulting state's legislature, the defaulting state's
4 respiratory therapy licensing authority, and each of the member
5 states' respiratory therapy licensing authorities.

6 (5) A state that has been terminated is responsible for all
7 assessments, obligations, and liabilities incurred through the
8 effective date of termination, including obligations that extend
9 beyond the effective date of termination, if necessary.

10 (6) Upon the termination of a state's membership from this
11 compact, that state shall immediately provide notice to all licensees
12 and compact privilege holders (of which the commission has a record)
13 within that state of such termination. The terminated state shall
14 continue to recognize all licenses granted pursuant to this compact
15 for a minimum of 180 days after the date of said notice of
16 termination.

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

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

26 (9) Dispute resolution.

27 (a) Upon request by a member state, the commission shall attempt
28 to resolve disputes related to the compact that arise among member
29 states and between member and nonmember states.

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

33 (10) Enforcement.

34 (a) By majority vote, as may be further provided by rule, the
35 commission may initiate legal action against a member state in
36 default in the United States district court for the District of
37 Columbia or the federal district where the commission has its
38 principal offices to enforce compliance with the provisions of the
39 compact and its promulgated rules. A member state by enactment of
40 this compact consents to venue and jurisdiction in such court for the

1 purposes set forth herein. The relief sought may include both
2 injunctive relief and damages. In the event judicial enforcement is
3 necessary, the prevailing party shall be awarded all costs of such
4 litigation, including reasonable attorneys' fees. The remedies herein
5 shall not be the exclusive remedies of the commission. The commission
6 may pursue any other remedies available under federal or the
7 defaulting member state's law.

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

16 (c) No person other than a member state shall enforce this
17 compact against the commission.

18 NEW SECTION. **Sec. 11.** EFFECTIVE DATE, WITHDRAWAL, AND
19 AMENDMENT. (1) The compact shall come into effect on the date on
20 which the compact statute is enacted into law in the seventh member
21 state ("effective date").

22 (a) On or after the effective date of the compact, the commission
23 shall convene and review the enactment of each of the first seven
24 member states ("charter member states") to determine if the statute
25 enacted by each such charter member state is materially different
26 than the model compact.

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

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

34 (b) Member states enacting the compact subsequent to the seven
35 initial charter member states shall be subject to the process set
36 forth herein and commission rule to determine if their enactments are
37 materially different from the model compact and whether they qualify
38 for participation in the compact.

1 (c) All actions taken for the benefit of the commission or in
2 furtherance of the purposes of the administration of the compact
3 prior to the effective date of the compact or the commission coming
4 into existence shall be considered to be actions of the commission
5 unless specifically repudiated by the commission. The commission
6 shall own and have all rights to any intellectual property developed
7 on behalf or in furtherance of the commission by individuals or
8 entities involved in organizing or establishing the commission, as
9 may be further set forth in rules of the commission.

10 (d) Any state that joins the compact subsequent to the
11 commission's initial adoption of the rules and bylaws shall be
12 subject to the rules and bylaws as they exist on the date on which
13 the compact becomes law in that state. Any rule that has been
14 previously adopted by the commission shall have the full force and
15 effect of law on the date the compact becomes law in that state.

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

18 (a) A member state's withdrawal shall not take effect until 180
19 days after enactment of the repealing statute.

20 (b) Withdrawal shall not affect the continuing requirement of the
21 withdrawing state's respiratory therapy licensing authority to comply
22 with the investigative and adverse action reporting requirements of
23 this compact prior to the effective date of withdrawal.

24 (c) Upon the enactment of a statute withdrawing from this
25 compact, a state shall immediately provide notice of such withdrawal
26 to all licensees and compact privilege holders (of which the
27 commission has a record) within that state. Notwithstanding any
28 subsequent statutory enactment to the contrary, such withdrawing
29 state shall continue to recognize all licenses granted pursuant to
30 this compact for a minimum of 180 days after the date of such notice
31 of withdrawal.

32 (3) Nothing contained in this compact shall be construed to
33 invalidate or prevent any licensure agreement or other cooperative
34 arrangement between a member state and a nonmember state that does
35 not conflict with the provisions of this compact.

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

1 NEW SECTION. **Sec. 12.** CONSTRUCTION AND SEVERABILITY. (1) This
2 compact and the commission's rule-making authority shall be liberally
3 construed so as to effectuate the purposes and the implementation and
4 administration of the compact. Provisions of the compact expressly
5 authorizing or requiring the promulgation of rules shall not be
6 construed to limit the commission's rule-making authority solely for
7 those purposes.

8 (2) The provisions of this compact shall be severable, and if any
9 phrase, clause, sentence, or provision of this compact is held by a
10 court of competent jurisdiction to be contrary to the constitution of
11 any member state, a state seeking participation in the compact, or of
12 the United States, or the applicability thereof to any government,
13 agency, person, or circumstance is held to be unconstitutional by a
14 court of competent jurisdiction, the validity of the remainder of
15 this compact and the applicability thereof to any other government,
16 agency, person, or circumstance shall not be affected thereby.

17 (3) Notwithstanding subsection (2) of this section, the
18 commission may deny a state's participation in the compact or, in
19 accordance with the requirements of section 10 of this act, terminate
20 a member state's participation in the compact, if it determines that
21 a constitutional requirement of a member state is a material
22 departure from the compact. Otherwise, if this compact shall be held
23 to be contrary to the constitution of any member state, the compact
24 shall remain in full force and effect as to the remaining member
25 states and in full force and effect as to the member state affected
26 as to all severable matters.

27 NEW SECTION. **Sec. 13.** CONSISTENT EFFECT AND CONFLICT WITH OTHER
28 STATE LAWS. (1) Nothing herein shall prevent or inhibit the
29 enforcement of any other law of a member state that is not
30 inconsistent with the compact.

31 (2) Any laws, statutes, regulations, or other legal requirements
32 in a member state in conflict with the compact are superseded to the
33 extent of the conflict, including any subsequently enacted state
34 laws.

35 (3) All permissible agreements between the commission and the
36 member states are binding in accordance with their terms.

37 (4) Other than as expressly set forth herein, nothing in this
38 compact will impact initial licensure.

1 NEW SECTION. **Sec. 14.** Sections 1 through 13 of this act
2 constitute a new chapter in Title 18 RCW.

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