

49 is not limited to, programs to which Licensees with substance abuse or addiction
50 issues are referred in lieu of Adverse Action.
51

52 **D. “Charter Member States”** means those Member States who were the first
53 seven states to enact the Compact into the laws of their State.
54

55 **E. “Commission” or “Respiratory Care Interstate Compact Commission”**
56 means the government instrumentality and body politic whose membership
57 consists of all Member States that have enacted the Compact.
58

59 **F. “Commissioner”** means the individual appointed by a Member State to serve as
60 the member of the Commission for that Member State.
61

62 **G. “Compact”** means the Respiratory Care Interstate Compact.
63

64 **H. “Compact Privilege”** means the authorization granted by a Remote State to
65 allow a Licensee from another Member State to practice as a Respiratory
66 Therapist in the Remote State under the Remote State’s laws and Rules. The
67 Practice of Respiratory Therapy occurs in the Member State where the patient is
68 located at the time of the patient encounter.
69

70 **I. “Criminal Background Check”** means the submission by the Member State of
71 fingerprints or other biometric-based information on license applicants at the time
72 of initial licensing for the purpose of obtaining that applicant’s criminal history
73 record information, as defined in 28 C.F.R. § 20.3(d) or successor provision, from
74 the Federal Bureau of Investigation and the State’s criminal history record
75 repository, as defined in 28 C.F.R. § 20.3(f) or successor provision.
76

77 **J. “Data System”** means the Commission’s repository of information about
78 Licensees as further set forth in Section 8.
79

80 **K. “Domicile”** means the jurisdiction which is the Licensee’s principal home for
81 legal purposes.
82

83 **L. “Encumbered License”** means a license that a State’s Respiratory Therapy
84 Licensing Authority has limited in any way.
85

86 **M. “Executive Committee”** means a group of directors elected or appointed to act
87 on behalf of, and within the powers granted to them by the Commission.
88

89 **N. “Home State”** except as set forth in Section 5, means the Member State that is
90 the Licensee’s primary Domicile.
91

92 **O. “Home State License”** means an active license to practice Respiratory Therapy
93 in a Home State that is not an Encumbered License.
94

- 95 P. **“Jurisprudence Requirement”** means an assessment of an individual’s
96 knowledge of the State laws and regulations governing the Practice of
97 Respiratory Therapy in such State.
98
- 99 Q. **“Licensee”** means an individual who currently holds an authorization from the
100 State to practice as a Respiratory Therapist.
101
- 102 R. **“Member State”** means a State that has enacted the Compact and been
103 admitted to the Commission in accordance with the provisions herein and
104 Commission Rules.
105
- 106 S. **“Model Compact”** means the model for the Respiratory Care Interstate
107 Compact on file with The Council of State Governments or other entity as
108 designated by the Commission.
109
- 110 T. **“Remote State”** means a Member State where a Licensee is exercising or
111 seeking to exercise the Compact Privilege.
112
- 113 U. **“Respiratory Therapist” or “Respiratory Care Practitioner”¹** means an
114 individual who holds a credential issued by the National Board for Respiratory
115 Care (or its successor) and holds a license in a State to practice Respiratory
116 Therapy. For purposes of this Compact, any other title or status adopted by a
117 State to replace the term “Respiratory Therapist” or “Respiratory Care
118 Practitioner” shall be deemed synonymous with “Respiratory Therapist” and shall
119 confer the same rights and responsibilities to the Licensee under the provisions
120 of this Compact at the time of its enactment.
121
- 122 V. **“Respiratory Therapy,” “Respiratory Therapy Practice,” “Respiratory Care,”**
123 **“the Practice of Respiratory Care,” and “the Practice of Respiratory**
124 **Therapy”** means the care and services provided by or under the direction and
125 supervision of a Respiratory Therapist or Respiratory Care Practitioner.
126
- 127 W. **“Respiratory Therapy Licensing Authority”** means the agency, board, or other
128 body of a State that is responsible for licensing and regulation of Respiratory
129 Therapists.
130
- 131 X. **“Rule”** means a regulation promulgated by an entity that has the force and effect
132 of law.
133

¹ Note to bill drafters: the legislative intent of this Compact is for Respiratory Therapists practicing under a Compact Privilege to be granted all of the rights and privileges afforded a regularly licensed Respiratory Therapist in your State including billing of insurance. Wherever possible, The Council of State Governments (CSG) encourages drafters to cross reference your State’s specific statutory definition of Respiratory Therapist with the Compact’s definition of Respiratory Therapist to ensure continuity.

134 Y. **“Scope of Practice”** means the procedures, actions, and processes a
135 Respiratory Therapist licensed in a State or practicing under a Compact Privilege
136 in a State is permitted to undertake in that State and the circumstances under
137 which the Respiratory Therapist is permitted to undertake those procedures,
138 actions, and processes. Such procedures, actions, and processes, and the
139 circumstances under which they may be undertaken may be established through
140 means, including, but not limited to, statute, regulations, case law, and other
141 processes available to the State Respiratory Therapy Licensing Authority or other
142 government agency.

143
144 Z. **“Significant Investigative Information”** means information, records, and
145 documents received or generated by a State Respiratory Therapy Licensing
146 Authority pursuant to an investigation for which a determination has been made
147 that there is probable cause to believe that the Licensee has violated a statute or
148 regulation that is considered more than a minor infraction for which the State
149 Respiratory Therapy Licensing Authority could pursue Adverse Action against the
150 Licensee.

151
152 AA. **“State”** means any state, commonwealth, district, or territory of the United
153 States.

154 SECTION 3. STATE PARTICIPATION IN THIS COMPACT

- 155
156
157 A. In order to participate in this Compact and thereafter continue as a Member
158 State, a Member State shall:
- 159 1. Enact a Compact that is not materially different from the Model Compact;
 - 160 2. License Respiratory Therapists;
 - 161 3. Participate in the Commission’s Data System;
 - 162 4. Have a mechanism in place for receiving and investigating complaints against
163 Licensees and Compact Privilege holders;
 - 164 5. Notify the Commission, in compliance with the terms of this Compact and
165 Commission Rules, of any Adverse Action against a Licensee, a Compact
166 Privilege holder, or a license applicant;
 - 167 6. Notify the Commission, in compliance with the terms of this Compact and
168 Commission Rules, of the existence of Significant Investigative Information;
 - 169 7. Comply with the Rules of the Commission;
 - 170 8. Grant the Compact Privilege to a holder of an active Home State License and
171 otherwise meet the applicable requirements of Section 4 in a Member State;
172 and
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182 9. Complete a Criminal Background Check for each new Licensee at the time of
183 initial licensure.

184
185 a. Where expressly authorized or permitted by federal law, whether such
186 federal law is in effect prior to, at, or after the time of a Member State's
187 enactment of this Compact, a Member State's enactment of this Compact
188 shall hereby authorize the Member State's Respiratory Therapy Licensing
189 Authority to perform Criminal Background Checks as defined herein. The
190 absence of such a federal law as described in this subsection shall not
191 prevent or preclude such authorization where it may be derived or granted
192 through means other than the enactment of this Compact.

193
194 B. Nothing in this Compact prohibits a Member State from charging a fee for
195 granting and renewing the Compact Privilege.

196
197 **SECTION 4. COMPACT PRIVILEGE**

198
199 A. To exercise the Compact Privilege under the terms and provisions of the
200 Compact, the Licensee shall:

- 201
- 202 1. Hold and maintain an active Home State License as a Respiratory Therapist;
- 203
- 204 2. Hold and maintain an active credential from the National Board for
205 Respiratory Care (or its successor) that would qualify them for licensure in the
206 Remote State in which they are seeking the privilege;
- 207
- 208 3. Have not had any Adverse Action against a license within the previous two (2)
209 years;
- 210
- 211 4. Notify the Commission that the Licensee is seeking the Compact Privilege
212 within a Remote State(s);
- 213
- 214 5. Pay any applicable fees, including any State and Commission fees and
215 renewal fees, for the Compact Privilege;
- 216
- 217 6. Meet any Jurisprudence Requirements established by the Remote State in
218 which the Licensee is seeking a Compact Privilege;
- 219
- 220 7. Report to the Commission Adverse Action taken by any non-Member State
221 within thirty (30) days from the date the Adverse Action is taken;
- 222
- 223 8. Report to the Commission, when applying for a Compact Privilege, the
224 address of the Licensee's Domicile and thereafter promptly report to the
225 Commission any change in the address of the Licensee's Domicile within
226 thirty (30) days of the effective date of the change in address; and
- 227
- 228 9. Consent to accept service of process by mail at the Licensee's Domicile on
229 record with the Commission with respect to any action brought against the

230 Licensee by the Commission or a Member State, and consent to accept
231 service of a subpoena by mail at the Licensee's Domicile on record with the
232 Commission with respect to any action brought or investigation conducted by
233 the Commission or a Member State.
234

235 **B.** The Compact Privilege is valid until the expiration date or revocation of the Home
236 State License unless terminated pursuant to Adverse Action. The Licensee must
237 comply with all of the requirements of Subsection A, above, to maintain the
238 Compact Privilege in a Remote State. If those requirements are met, no Adverse
239 Actions are taken, and the Licensee has paid any applicable Compact Privilege
240 renewal fees, then the Licensee will maintain the Licensee's Compact Privilege.
241

242 **C.** A Licensee providing Respiratory Therapy in a Remote State under the Compact
243 Privilege shall function within the Scope of Practice authorized by the Remote
244 State for the type of Respiratory Therapist license the Licensee holds. Such
245 procedures, actions, processes, and the circumstances under which they may be
246 undertaken may be established through means, including, but not limited to,
247 statute, regulations, case law, and other processes available to the State
248 Respiratory Therapy Licensing Authority or other government agency.
249

250 **D.** If a Licensee's Compact Privilege in a Remote State is removed by the Remote
251 State, the individual shall lose or be ineligible for the Compact privilege in that
252 Remote State until the Compact Privilege is no longer limited or restricted by that
253 State.
254

255 **E.** If a Home State License is encumbered, the Licensee shall lose the Compact
256 Privilege in all Remote States until the following occur:
257

- 258 1. The Home State License is no longer encumbered; and
- 259
- 260 2. Two (2) years have elapsed from the date on which the license is no longer
261 encumbered due to the Adverse Action.
262

263 **F.** Once a Licensee with a restricted or limited license meets the requirements of
264 Subsection E.1 and 2, the Licensee must also meet the requirements of
265 Subsection A to obtain a Compact Privilege in a Remote State.
266

267 **SECTION 5. ACTIVE MILITARY MEMBER OR THEIR SPOUSE**

268

269 **A.** An Active Military Member, or their spouse, shall designate a Home State where
270 the individual has a current license in good standing. The individual may retain
271 the Home State designation during the period the service member is on active
272 duty.
273

274

275 **B.** An Active Military Member and their spouse shall not be required to pay to the
276 Commission for a Compact Privilege any fee that may otherwise be charged by

277 the Commission. If a Remote State chooses to charge a fee for a Compact
278 Privilege, it may choose to charge a reduced fee or no fee to an Active Military
279 Member and their spouse for a Compact Privilege.

280
281 **SECTION 6. ADVERSE ACTIONS**
282

- 283 **A.** A Member State in which a Licensee is licensed shall have authority to impose
284 Adverse Action against the license issued by that Member State.
285
- 286 **B.** A Member State may take Adverse Action based on Significant Investigative
287 Information of a Remote State or the Home State, so long as the Member State
288 follows its own procedures for imposing Adverse Action.
289
- 290 **C.** Nothing in this Compact shall override a Member State’s decision that
291 participation in an Alternative Program may be used in lieu of Adverse Action and
292 that such participation shall remain non-public if required by the Member State’s
293 laws.
294
- 295 **D.** A Remote State shall have the authority to:
296
- 297 1. Take Adverse Actions as set forth herein against a Licensee’s Compact
298 Privilege in that State;
299
 - 300 2. Issue subpoenas for both hearings and investigations that require the
301 attendance and testimony of witnesses, and the production of evidence.
302
 - 303 a. Subpoenas may be issued by a Respiratory Therapy Licensing Authority
304 in a Member State for the attendance and testimony of witnesses and the
305 production of evidence.
306
 - 307 b. Subpoenas issued by a Respiratory Therapy Licensing Authority in a
308 Member State for the attendance and testimony of witnesses shall be
309 enforced in the latter State by any court of competent jurisdiction in the
310 latter State, according to the practice and procedure of that court
311 applicable to subpoenas issued in proceedings pending before it.
312
 - 313 c. Subpoenas issued by a Respiratory Therapy Licensing Authority in a
314 Member State for production of evidence from another Member State shall
315 be enforced in the latter State, according to the practice and procedure of
316 that court applicable to subpoenas issued in the proceedings pending
317 before it.
318
 - 319 d. The issuing authority shall pay any witness fees, travel expenses,
320 mileage, and other fees required by the service statutes of the State
321 where the witnesses or evidence are located;
322

- 323 3. Unless otherwise prohibited by State law, recover from the Licensee the costs
324 of investigations and disposition of cases resulting from any Adverse Action
325 taken against that Licensee;
326
- 327 4. Notwithstanding subsection D.2., a Member State may not issue a subpoena
328 to gather evidence of conduct in another Member State that is lawful in such
329 other Member State for the purpose of taking Adverse Action against a
330 Licensee's Compact Privilege or application for a Compact Privilege in that
331 Member State; and
332
- 333 5. Nothing in this Compact authorizes a Member State to impose discipline
334 against a Respiratory Therapist's Compact Privilege in that Member State for
335 the individual's otherwise lawful practice in another State.
336

337 **E. Joint Investigations**
338

- 339 1. In addition to the authority granted to a Member State by its respective
340 Respiratory Therapy Practice act or other applicable state law, a Member
341 State may participate with other Member States in joint investigations of
342 Licensees, provided, however, that a Member State receiving such a request
343 has no obligation to respond to any subpoena issued regarding an
344 investigation of conduct or practice that was lawful in a Member State at the
345 time it was undertaken.
346
- 347 2. Member States shall share any Significant Investigative Information, litigation,
348 or compliance materials in furtherance of any joint or individual investigation
349 initiated under the Compact. In sharing such information between Member
350 State Respiratory Therapy Licensing Authorities, all information obtained shall
351 be kept confidential, except as otherwise mutually agreed upon by the sharing
352 and receiving Member State(s).
353

354 **F.** Nothing in this Compact may permit a Member State to take any Adverse Action
355 against a Licensee or holder of a Compact Privilege for conduct or practice that
356 was legal in the Member State at the time it was undertaken.
357

358 **G.** Nothing in this Compact may permit a Member State to take disciplinary action
359 against a Licensee or holder of a Compact Privilege for conduct or practice that
360 was legal in the Member State at the time it was undertaken.
361

362 **SECTION 7. ESTABLISHMENT OF THE RESPIRATORY CARE INTERSTATE**
363 **COMPACT COMMISSION**
364

365 **A.** The Compact Member States hereby create and establish a joint government
366 agency whose membership consists of all Member States that have enacted the
367 Compact known as the Respiratory Care Interstate Compact Commission. The
368 Commission is an instrumentality of the Compact Member States acting jointly
369 and not an instrumentality of any one State. The Commission shall come into

370 existence on or after the effective date of the Compact, as set forth in Section
371 11.
372

373 **B. Membership, Voting, and Meetings**
374

- 375 1. Each Member State shall have and be limited to one (1) Commissioner
376 selected by that Member State's Respiratory Therapy Licensing Authority.
377
- 378 2. The Commissioner shall be an administrator or their designated staff member
379 of the Member State's Respiratory Therapy Licensing Authority.
380
- 381 3. The Commission shall by Rule or bylaw establish a term of office for
382 Commissioners and may by Rule or bylaw establish term limits.
383
- 384 4. The Commission may recommend to a Member State the removal or
385 suspension of any Commissioner from office.
386
- 387 5. A Member State's Respiratory Therapy Licensing Authority shall fill any
388 vacancy of its Commissioner occurring on the Commission within sixty (60)
389 days of the vacancy.
390
- 391 6. Each Commissioner shall be entitled to one vote on all matters before the
392 Commission requiring a vote by Commissioners.
393
- 394 7. A Commissioner shall vote in person or by such other means as provided in
395 the bylaws. The bylaws may provide for Commissioners to meet by
396 telecommunication, videoconference, or other means of communication.
397
- 398 8. The Commission shall meet at least once during each calendar
399 year. Additional meetings may be held as set forth in the bylaws.
400

401 **C. The Commission shall have the following powers:**
402

- 403 1. Establish and amend the fiscal year of the Commission;
404
- 405 2. Establish and amend bylaws and policies, including but not limited to, a code
406 of conduct and conflict of interest;
407
- 408 3. Establish and amend Rules, which shall be binding in all Member States;
409
- 410 4. Maintain its financial records in accordance with the bylaws;
411
- 412 5. Meet and take such actions as are consistent with the provisions of this
413 Compact, the Commission's Rules, and the bylaws;
414
- 415 6. Initiate and conduct legal proceedings or actions in the name of the
416 Commission, provided that the standing of any Respiratory Therapy Licensing
417 Authority to sue or be sued under applicable law shall not be affected;

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7. Maintain and certify records and information provided to a Member State as the authenticated business records of the Commission, and designate an agent to do so on the Commission's behalf;
 8. Purchase and maintain insurance and bonds;
 9. Accept or contract for services of personnel, including, but not limited to, employees of a Member State;
 10. Conduct an annual financial review;
 11. Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the Compact, and establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;
 12. Assess and collect fees;
 13. Accept any and all appropriate gifts, donations, grants of money, other sources of revenue, equipment, supplies, materials, and services, and receive, utilize, and dispose of the same, provided that at all times:
 - a. The Commission shall avoid any appearance of impropriety; and
 - b. The Commission shall avoid any appearance of conflict of interest;
 14. Lease, purchase, retain, own, hold, improve, or use any property, real, personal, or mixed, or any undivided interest therein;
 15. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;
 16. Establish a budget and make expenditures;
 17. Borrow money in a fiscally responsible manner;
 18. Appoint committees, including standing committees, composed of Commissioners State regulators, State legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this Compact and the bylaws;
 19. Provide and receive information from, and cooperate with, law enforcement agencies;
 20. Establish and elect an Executive Committee, including a chair, vice-chair, secretary, treasurer, and such other offices as the Commission shall establish by Rule or bylaw;

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21. Enter into contracts or arrangements for the management of the affairs of the Commission;
 22. Determine whether a State's adopted language is materially different from the Model Compact language such that the State would not qualify for participation in the Compact; and
 23. Perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact.

478 **D. The Executive Committee**

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1. The Executive Committee shall have the power to act on behalf of the Commission according to the terms of this Compact. The powers, duties, and responsibilities of the Executive Committee shall include:
 - a. Overseeing the day-to-day activities of the administration of the Compact, including enforcement and compliance with the provisions of the Compact, its Rules and bylaws, and other such duties as deemed necessary;
 - b. Recommending to the Commission changes to the Rules or bylaws, changes to this Compact legislation, fees charged to Compact Member States, fees charged to Licensees, and other fees;
 - c. Ensuring Compact administration services are appropriately provided, including by contract;
 - d. Preparing and recommending the budget;
 - e. Maintaining financial records on behalf of the Commission;
 - f. Monitoring Compact compliance of Member States and providing compliance reports to the Commission;
 - g. Establishing additional committees as necessary;
 - h. Exercising the powers and duties of the Commission during the interim between Commission meetings, except for adopting or amending Rules, adopting or amending bylaws, and exercising any other powers and duties expressly reserved to the Commission by Rule or bylaw; and
 - i. Performing other duties as provided in the Rules or bylaws of the Commission.
 2. The Executive Committee shall be composed of up to nine (9) members, as further set forth in the bylaws of the Commission:
 - a. Seven (7) voting members who are elected by the Commission from the current membership of the Commission; and

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- b.** The employment, compensation, discipline or other matters, practices or procedures related to specific employees;
 - c.** Current or threatened discipline of a Licensee or Compact Privilege holder by the Commission or by a Member State’s Respiratory Therapy Licensing Authority;
 - d.** Current, threatened, or reasonably anticipated litigation;
 - e.** Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;
 - f.** Accusing any person of a crime or formally censuring any person;
 - g.** Trade secrets or commercial or financial information that is privileged or confidential;
 - h.** Information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
 - i.** Investigative records compiled for law enforcement purposes;
 - j.** Information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact;
 - k.** Legal advice;
 - l.** Matters specifically exempted from disclosure by federal or Member State law; or
 - m.** Other matters as promulgated by the Commission by Rule.
 - 5.** If a meeting, or portion of a meeting, is closed, the presiding officer shall state that the meeting will be closed and reference each relevant exempting provision, and such reference shall be recorded in the minutes.
 - 6.** The Commission shall keep minutes in accordance with Commission Rules and bylaws. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release only by a majority vote of the Commission or order of a court of competent jurisdiction.
- G. Financing of the Commission**
- 1.** The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

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2. The Commission may accept any and all appropriate revenue sources as provided herein.
 3. The Commission may levy on and collect an annual assessment from each Member State and impose fees on Licensees of Member States to whom it grants a Compact Privilege to cover the cost of the operations and activities of the Commission and its staff. The aggregate annual assessment amount for Member States, if any, shall be allocated based upon a formula that the Commission shall promulgate by Rule.
 4. The Commission shall not incur obligations of any kind prior to securing the funds or a loan adequate to meet the same; nor shall the Commission pledge the credit of any of the Member States, except by and with the authority of the Member State.
 5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the financial review and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be subject to an annual financial review by a certified or licensed public accountant, and the report of the financial review shall be included in and become part of the annual report of the Commission.

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H. Qualified Immunity, Defense, and Indemnification

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1. Nothing herein shall be construed as a limitation on the liability of any Licensee for professional malpractice or misconduct, which shall be governed solely by any other applicable state laws.
 2. The Member States, Commissioners, officers, executive directors, employees, and agents of the Commission shall be immune from suit and liability, both personally and in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that nothing in this subsection shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person. The procurement of insurance of any type by the Commission shall not in any way compromise or limit the immunity granted hereunder.
 3. The Commission shall defend any Commissioner, officer, executive director, employee, and agent of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or as determined by the Commission that the person against whom the claim is made had a reasonable basis for believing occurred within

662 the scope of Commission employment, duties, or responsibilities; provided
663 that nothing herein shall be construed to prohibit that person from retaining
664 their own counsel at their own expense; and provided further, that the actual
665 or alleged act, error, or omission did not result from that person's intentional
666 or willful or wanton misconduct.
667

- 668 **4.** The Commission shall indemnify and hold harmless any Commissioner,
669 member, officer, executive director, employee, and agent of the Commission
670 for the amount of any settlement or judgment obtained against that person
671 arising out of any actual or alleged act, error, or omission that occurred within
672 the scope of Commission employment, duties, or responsibilities, or that such
673 person had a reasonable basis for believing occurred within the scope of
674 Commission employment, duties, or responsibilities, provided that the actual
675 or alleged act, error, or omission did not result from the intentional or willful or
676 wanton misconduct of that person.
677
- 678 **5.** Nothing in this Compact shall be interpreted to waive or otherwise abrogate a
679 Member State's state action immunity or state action affirmative defense with
680 respect to antitrust claims under the Sherman Act, Clayton Act, or any other
681 State or federal antitrust or anticompetitive law or regulation.
682
- 683 **6.** Nothing in this Compact shall be construed to be a waiver of sovereign
684 immunity by the Member States or by the Commission.
685

686 **SECTION 8. DATA SYSTEM**

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- 688 **A.** The Commission shall provide for the development, maintenance, operation, and
689 utilization of a coordinated database and reporting system containing licensure,
690 Adverse Action, and the presence of Significant Investigative Information.
691
- 692 **B.** Notwithstanding any other provision of State law to the contrary, a Member State
693 shall submit a uniform data set to the Data System as required by the Rules of
694 the Commission, including but not limited to:
 - 695 **1.** Identifying information;
 - 696 **2.** Licensure data;
 - 697 **3.** Adverse Actions against a Licensee, license applicant, or Compact Privilege
698 holder and information related thereto;
 - 699 **4.** Non-confidential information related to Alternative Program participation, the
700 beginning and ending dates of such participation, and other information
701 related to such participation not made confidential under Member State law;
 - 702 **5.** Any denial of application for licensure, and the reason(s) for such denial;
 - 703 **6.** The presence of current Significant Investigative Information; and
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- 711 7. Other information that may facilitate the administration of this Compact or the
712 protection of the public, as determined by the Rules of the Commission.
713
- 714 C. No Member State shall submit any information which constitutes criminal history
715 record information, as defined by applicable federal law, to the Data System
716 established hereunder.
717
- 718 D. The records and information provided to a Member State pursuant to this
719 Compact or through the Data System, when certified by the Commission or an
720 agent thereof, shall constitute the authenticated business records of the
721 Commission, and shall be entitled to any associated hearsay exception in any
722 relevant judicial, quasi-judicial or administrative proceedings in a Member State.
723
- 724 E. Significant Investigative Information pertaining to a Licensee in any Member
725 State will only be available to other Member States.
726
- 727 F. It is the responsibility of the Member States to report any Adverse Action against
728 a Licensee and to monitor the database to determine whether Adverse Action
729 has been taken against a Licensee. Adverse Action information pertaining to a
730 Licensee in any Member State will be available to any other Member State.
731
- 732 G. Member States contributing information to the Data System may designate
733 information that may not be shared with the public without the express
734 permission of the contributing State.
735
- 736 H. Any information submitted to the Data System that is subsequently expunged
737 pursuant to federal law or the laws of the Member State contributing the
738 information shall be removed from the Data System.
739

740 SECTION 9. RULEMAKING

741

- 742 A. The Commission shall promulgate reasonable Rules in order to effectively and
743 efficiently implement and administer the purposes and provisions of the
744 Compact. A Rule shall be invalid and have no force or effect only if a court of
745 competent jurisdiction holds that the Rule is invalid because the Commission
746 exercised its rulemaking authority in a manner that is beyond the scope and
747 purposes of the Compact, or the powers granted hereunder, or based upon
748 another applicable standard of review.
749
- 750 B. For purposes of the Compact, the Rules of the Commission shall have the force
751 of law in each Member State.
752
- 753 C. The Commission shall exercise its rulemaking powers pursuant to the criteria set
754 forth in this section and the Rules adopted thereunder. Rules shall become
755 binding as of the date specified in each Rule.
756
- 757 D. If a majority of the legislatures of the Member States rejects a Rule or portion of a
758 Rule, by enactment of a statute or resolution in the same manner used to adopt

759 the Compact within four (4) years of the date of adoption of the Rule, then such
760 Rule shall have no further force and effect in any Member State.
761

762 **E.** Rules shall be adopted at a regular or special meeting of the Commission.
763

764 **F.** Prior to adoption of a proposed Rule, the Commission shall hold a public hearing
765 and allow persons to provide oral and written comments, data, facts, opinions,
766 and arguments.
767

768 **G.** Prior to adoption of a proposed Rule by the Commission, and at least thirty (30)
769 days in advance of the meeting at which the Commission will hold a public
770 hearing on the proposed Rule, the Commission shall provide a notice of
771 proposed rulemaking:
772

- 773 1. On the website of the Commission or other publicly accessible platform;
- 774
- 775 2. To persons who have requested notice of the Commission's notices of
776 proposed rulemaking, and
777
- 778 3. In such other way(s) as the Commission may by Rule specify.
779

780 **H.** The notice of proposed rulemaking shall include:
781

- 782 1. The time, date, and location of the public hearing at which the Commission
783 will hear public comments on the proposed Rule and, if different, the time,
784 date, and location of the meeting where the Commission will consider and
785 vote on the proposed Rule;
786
- 787 2. If the hearing is held via telecommunication, video conference, or other
788 electronic means, the Commission shall include the mechanism for access to
789 the hearing in the notice of proposed rulemaking;
790
- 791 3. The text of the proposed Rule and the reason therefor;
792
- 793 4. A request for comments on the proposed Rule from any interested person;
794 and
795
- 796 5. The manner in which interested persons may submit written comments.
797

798 **I.** All hearings will be recorded. A copy of the recording and all written comments
799 and documents received by the Commission in response to the proposed Rule
800 shall be available to the public.
801

802 **J.** Nothing in this section shall be construed as requiring a separate hearing on
803 each Rule. Rules may be grouped for the convenience of the Commission at
804 hearings required by this section.
805

806 **K.** The Commission shall, by majority vote of all Commissioners, take final action on
807 the proposed Rule based on the rulemaking record and the full text of the Rule.

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1. The Commission may adopt changes to the proposed Rule provided the changes are consistent with the original purpose of the proposed Rule.
 2. The Commission shall provide an explanation of the reasons for substantive changes made to the proposed Rule as well as reasons for substantive changes not made that were recommended by commenters.
 3. The Commission shall determine a reasonable effective date for the Rule. Except for an emergency as provided in Section 9.L, the effective date of the Rule shall be no sooner than thirty (30) days after issuing the notice that it adopted or amended the Rule.
- L.** Upon determination that an emergency exists, the Commission may consider and adopt an emergency Rule with twenty-four (24) hours' notice, and with opportunity to comment, provided that the usual rulemaking procedures provided in the Compact and in this section shall be retroactively applied to the Rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the Rule. For the purposes of this provision, an emergency Rule is one that must be adopted immediately in order to:
1. Meet an imminent threat to public health, safety, or welfare;
 2. Prevent a loss of Commission or Member State funds;
 3. Meet a deadline for the promulgation of a Rule that is established by federal law or Rule; or
 4. Protect public health and safety.
- M.** The Commission or an authorized committee of the Commission may direct revisions to a previously adopted Rule for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a Rule. A challenge shall be made in writing and delivered to the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.
- N.** No Member State's rulemaking process or procedural requirements shall apply to the Commission.
1. The Commission shall have no authority over any Member State's rulemaking process or procedural requirements that do not pertain to the Compact.

- 855 O. Nothing in this Compact, nor any Rule or regulation of the Commission, shall be
856 construed to limit, restrict, or in any way reduce the ability of a Member State to
857 enact and enforce laws, regulations, or other Rules related to the Practice of
858 Respiratory Therapy in that State, where those laws, regulations, or other Rules
859 are not inconsistent with the provisions of this Compact.
860

861 **SECTION 10. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT**

862
863 **A. Oversight**

- 864
865 1. The executive and judicial branches of State government in each Member
866 State shall enforce this Compact and take all actions necessary and
867 appropriate to implement the Compact.
868
869 2. Venue is proper and judicial proceedings by or against the Commission shall
870 be brought solely and exclusively in a court of competent jurisdiction where
871 the principal office of the Commission is located. The Commission may waive
872 venue and jurisdictional defenses to the extent it adopts or consents to
873 participate in alternative dispute resolution proceedings. Nothing herein shall
874 affect or limit the selection or propriety of venue in any action against a
875 Licensee for professional malpractice, misconduct or any such similar matter.
876
877 3. The Commission shall be entitled to receive service of process in any
878 proceeding regarding the enforcement or interpretation of the Compact and
879 shall have standing to intervene in such a proceeding for all purposes. Failure
880 to provide the Commission service of process shall render a judgment or
881 order void as to the Commission, this Compact, or promulgated Rules.
882

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

- 884
885 1. If the Commission determines that a Member State has defaulted in the
886 performance of its obligations or responsibilities under this Compact or the
887 promulgated Rules, the Commission shall provide written notice to the
888 defaulting State. The notice of default shall describe the default, the proposed
889 means of curing the default, and any other action that the Commission may
890 take, and shall offer training and specific technical assistance regarding the
891 default.
892
893 2. The Commission shall provide a copy of the notice of default to the other
894 Member States.
895

- 896 **C.** If a State in default fails to cure the default, the defaulting State may be
897 terminated from the Compact upon an affirmative vote of a majority of the
898 Commissioners of the Member States, and all rights, privileges and benefits
899 conferred on that State by this Compact may be terminated on the effective date
900 of termination. A cure of the default does not relieve the offending State of
901 obligations or liabilities incurred during the period of default.
902

- 903 **D.** Termination of membership in the Compact shall be imposed only after all other
904 means of securing compliance have been exhausted. Notice of intent to suspend
905 or terminate shall be given by the Commission to the governor, the majority and
906 minority leaders of the defaulting State’s legislature, the defaulting State’s
907 Respiratory Therapy Licensing Authority and each of the Member States’
908 Respiratory Therapy Licensing Authorities.
909
- 910 **E.** A State that has been terminated is responsible for all assessments, obligations,
911 and liabilities incurred through the effective date of termination, including
912 obligations that extend beyond the effective date of termination, if necessary.
913
- 914 **F.** Upon the termination of a State’s membership from this Compact, that State shall
915 immediately provide notice to all Licensees and Compact Privilege holders (of
916 which the Commission has a record) within that State of such termination. The
917 terminated State shall continue to recognize all licenses granted pursuant to this
918 Compact for a minimum of one hundred eighty (180) days after the date of said
919 notice of termination.
920
- 921 **G.** The Commission shall not bear any costs related to a State that is found to be in
922 default or that has been terminated from the Compact, unless agreed upon in
923 writing between the Commission and the defaulting State.
924
- 925 **H.** The defaulting State may appeal the action of the Commission by petitioning the
926 U.S. District Court for the District of Columbia or the federal district where the
927 Commission has its principal offices. The prevailing party shall be awarded all
928 costs of such litigation, including reasonable attorney’s fees.
929
- 930 **I. Dispute Resolution**
931
- 932 **1.** Upon request by a Member State, the Commission shall attempt to resolve
933 disputes related to the Compact that arise among Member States and
934 between Member and non-Member States.
935
- 936 **2.** The Commission shall promulgate a Rule providing for both mediation and
937 binding dispute resolution for disputes, as appropriate.
938
- 939 **J. Enforcement**
940
- 941 **1.** By majority vote, as may be further provided by Rule, the Commission may
942 initiate legal action against a Member State in default in the United States
943 District Court for the District of Columbia or the federal district where the
944 Commission has its principal offices to enforce compliance with the provisions
945 of the Compact and its promulgated Rules. A Member State by enactment of
946 this Compact consents to venue and jurisdiction in such court for the
947 purposes set forth herein. The relief sought may include both injunctive relief
948 and damages. In the event judicial enforcement is necessary, the prevailing
949 party shall be awarded all costs of such litigation, including reasonable
950 attorney’s fees. The remedies herein shall not be the exclusive remedies of

951 the Commission. The Commission may pursue any other remedies available
952 under federal or the defaulting Member State’s law.
953

- 954 2. A Member State may initiate legal action against the Commission in the U.S.
955 District Court for the District of Columbia or the federal district where the
956 Commission has its principal offices to enforce compliance with the provisions
957 of the Compact and its promulgated Rules. The relief sought may include
958 both injunctive relief and damages. In the event judicial enforcement is
959 necessary, the prevailing party shall be awarded all costs of such litigation,
960 including reasonable attorney’s fees.
961
- 962 3. No person other than a Member State shall enforce this Compact against the
963 Commission.
964

965 **SECTION 11. EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT**
966

967 A. The Compact shall come into effect on the date on which the Compact statute is
968 enacted into law in the seventh Member State (“Effective Date”).
969

970 1. On or after the Effective Date of the Compact, the Commission shall convene
971 and review the enactment of each of the first seven Member States (“Charter
972 Member States”) to determine if the statute enacted by each such Charter
973 Member State is materially different than the Model Compact.
974

975 a. A Charter Member State whose enactment is found to be materially
976 different from the Model Compact shall be entitled to the default process
977 set forth in Section 10.
978

979 b. If any Member State is later found to be in default, or is terminated or
980 withdraws from the Compact, the Commission shall remain in existence
981 and the Compact shall remain in effect even if the number of Member
982 States should be less than seven.
983

984 2. Member States enacting the Compact subsequent to the seven initial Charter
985 Member States shall be subject to the process set forth herein and
986 Commission Rule to determine if their enactments are materially different
987 from the Model Compact and whether they qualify for participation in the
988 Compact.
989

990 3. All actions taken for the benefit of the Commission or in furtherance of the
991 purposes of the administration of the Compact prior to the effective date of
992 the Compact or the Commission coming into existence shall be considered to
993 be actions of the Commission unless specifically repudiated by the
994 Commission. The Commission shall own and have all rights to any intellectual
995 property developed on behalf or in furtherance of the Commission by
996 individuals or entities involved in organizing or establishing the Commission,
997 as may be further set forth in Rules of the Commission.
998

999 4. Any State that joins the Compact subsequent to the Commission’s initial
1000 adoption of the Rules and bylaws shall be subject to the Rules and bylaws as
1001 they exist on the date on which the Compact becomes law in that State. Any
1002 Rule that has been previously adopted by the Commission shall have the full
1003 force and effect of law on the date the Compact becomes law in that State.
1004

1005 **B.** Any Member State may withdraw from this Compact by enacting a statute
1006 repealing the same.
1007

1008 1. A Member State’s withdrawal shall not take effect until one hundred eighty
1009 (180) days after enactment of the repealing statute.
1010

1011 2. Withdrawal shall not affect the continuing requirement of the withdrawing
1012 State’s Respiratory Therapy Licensing Authority to comply with the
1013 investigative and Adverse Action reporting requirements of this Compact prior
1014 to the effective date of withdrawal.
1015

1016 3. Upon the enactment of a statute withdrawing from this Compact, a State shall
1017 immediately provide notice of such withdrawal to all Licensees and Compact
1018 Privilege holders (of which the Commission has a record) within that State.
1019 Notwithstanding any subsequent statutory enactment to the contrary, such
1020 withdrawing State shall continue to recognize all licenses granted pursuant to
1021 this Compact for a minimum of one hundred eighty (180) days after the date
1022 of such notice of withdrawal.
1023

1024 **C.** Nothing contained in this Compact shall be construed to invalidate or prevent any
1025 licensure agreement or other cooperative arrangement between a Member State
1026 and a non-Member State that does not conflict with the provisions of this
1027 Compact.
1028

1029 **D.** This Compact may be amended by the Member States. No amendment to this
1030 Compact shall become effective and binding upon any Member State until it is
1031 enacted into the laws of all Member States.
1032

1033 **SECTION 12. CONSTRUCTION AND SEVERABILITY**

1034 **A.** This Compact and the Commission’s rulemaking authority shall be liberally
1035 construed so as to effectuate the purposes and the implementation and
1036 administration of the Compact. Provisions of the Compact expressly authorizing
1037 or requiring the promulgation of Rules shall not be construed to limit the
1038 Commission’s rulemaking authority solely for those purposes.
1039
1040

1041 **B.** The provisions of this Compact shall be severable, and if any phrase, clause,
1042 sentence or provision of this Compact is held by a court of competent jurisdiction
1043 to be contrary to the constitution of any Member State, a State seeking
1044 participation in the Compact, or of the United States, or the applicability thereof to
1045 any government, agency, person or circumstance is held to be unconstitutional
1046 by a court of competent jurisdiction, the validity of the remainder of this Compact

1047 and the applicability thereof to any other government, agency, person or
1048 circumstance shall not be affected thereby.

1049
1050 **C.** Notwithstanding subsection B of this section, the Commission may deny a State's
1051 participation in the Compact or, in accordance with the requirements of Section
1052 10, terminate a Member State's participation in the Compact, if it determines that
1053 a constitutional requirement of a Member State is a material departure from the
1054 Compact. Otherwise, if this Compact shall be held to be contrary to the
1055 constitution of any Member State, the Compact shall remain in full force and
1056 effect as to the remaining Member States and in full force and effect as to the
1057 Member State affected as to all severable matters.

1058
1059 **SECTION 13. CONSISTENT EFFECT AND CONFLICT WITH OTHER STATE LAWS**

- 1060
1061 **A.** Nothing herein shall prevent or inhibit the enforcement of any other law of a
1062 Member State that is not inconsistent with the Compact.
1063
1064 **B.** Any laws, statutes, regulations, or other legal requirements in a Member State in
1065 conflict with the Compact are superseded to the extent of the conflict, including
1066 any subsequently enacted State laws.
1067
1068 **C.** All permissible agreements between the Commission and the Member States are
1069 binding in accordance with their terms.
1070
1071 **D.** Other than as expressly set forth herein, nothing in this Compact will impact initial
1072 licensure.
1073