

1 H.524
2 Introduced by Representative Stone of Burlington
3 Referred to Committee on
4 Date:
5 Subject: Health care; professional regulation; respiratory therapists; respiratory
6 care practitioners; Respiratory Care Interstate Compact
7 Statement of purpose of bill as introduced: This bill proposes that the State
8 adopt and enter into the Respiratory Care Interstate Compact.

9 An act relating to Vermont's adoption of the Respiratory Care Interstate
10 Compact

11 It is hereby enacted by the General Assembly of the State of Vermont:

12 Sec. 1. 26 V.S.A. chapter 91 is amended to read:

13 CHAPTER 91. RESPIRATORY CARE

14 Subchapter 1. General Provisions

15 § 4701. DEFINITIONS

16 * * *

17 Subchapter 2. Respiratory Care Interstate Compact

18 § 4721. RESPIRATORY CARE INTERSTATE COMPACT; ADOPTION

19 This subchapter is the Vermont adoption of the Respiratory Care Interstate
20 Compact. The form, format, and text of the Compact have been conformed to

1 the conventions of the Vermont Statutes Annotated. It is the intent of the
2 General Assembly that this subchapter be interpreted as substantively the same
3 as the Respiratory Care Interstate Compact that is enacted by other Compact
4 party states.

5 § 4722. TITLE AND PURPOSE

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

12 (b) This Compact is designed to achieve the following objectives:

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

16 (2) enhance states' ability to protect the public's health and safety;

17 (3) promote the cooperation of member states in regulating the practice
18 of respiratory therapy within those member states;

19 (4) ease administrative burdens on states by encouraging the
20 cooperation of member states in regulating multistate respiratory therapy
21 practice;

1 (5) support relocating active military members and their spouses; and
2 (6) promote mobility and address workforce shortages.

3 § 4723. DEFINITIONS

4 As used in this Compact, unless the context requires otherwise, the
5 following definitions shall apply:

6 (1) “Active military member” means any person with a full-time duty
7 status in the U.S. Armed Forces, including members of the National Guard and
8 Reserve.

9 (2) “Adverse action” means any administrative, civil, equitable, or
10 criminal action permitted by a state’s laws that is imposed by any state
11 authority with regulatory authority over respiratory therapists, such as license
12 denial, censure, revocation, suspension, probation, monitoring of the licensee,
13 or restriction on the licensee’s practice, not including participation in an
14 alternative program.

15 (3) “Alternative program” means a nondisciplinary monitoring or
16 practice remediation process applicable to a respiratory therapist approved by
17 any state authority with regulatory authority over respiratory therapists. This
18 includes, but is not limited to, programs to which licensees with substance
19 abuse or addiction issues are referred in lieu of adverse action.

20 (4) “Charter member states” means those member states who were the
21 first seven states to enact the Compact into the laws of their state.

6 (7) "Compact" means the Respiratory Care Interstate Compact.

19 (10) “Data system” means the Commission’s repository of information
20 about licensees as further set forth in section 4729 of this subchapter.

1 (11) “Domicile” means the jurisdiction that is the licensee’s principal
2 home for legal purposes.

3 (12) “Encumbered license” means a license that a state’s respiratory
4 therapy licensing authority has limited in any way.

5 (13) “Executive committee” means a group of directors elected or
6 appointed to act on behalf of, and within the powers granted to, them by the
7 Commission.

8 (14) “Home state,” except as set forth in section 4726 of this subchapter,
9 means the member state that is the licensee’s primary domicile.

10 (15) “Home state license” means an active license to practice respiratory
11 therapy in a home state that is not an encumbered license.

12 (16) “Jurisprudence requirement” means an assessment of an
13 individual’s knowledge of the state laws and regulations governing the practice
14 of respiratory therapy in such state.

15 (17) “Licensee” means an individual who currently holds an
16 authorization from the state to practice as a respiratory therapist.

17 (18) “Member state” means a state that has enacted the Compact and
18 been admitted to the Commission in accordance with the provisions herein and
19 Commission rules.

1 (19) “Model Compact” means the model for the Respiratory Care
2 Interstate Compact on file with the Council of State Governments or other
3 entity as designated by the Commission.

4 (20) “Remote state” means a member state where a licensee is
5 exercising or seeking to exercise the Compact privilege.

6 (21) “Respiratory therapist” or “respiratory care practitioner” means an
7 individual who holds a credential issued by the National Board for Respiratory
8 Care, or its successor, and holds a license in a state to practice respiratory
9 therapy. For purposes of this Compact, any other title or status adopted by a
10 state to replace the term “respiratory therapist” or “respiratory care
11 practitioner” shall be deemed synonymous with “respiratory therapist” and
12 shall confer the same rights and responsibilities to the licensee under the
13 provisions of this Compact at the time of its enactment.

14 (22) “Respiratory therapy,” “respiratory therapy practice,” “respiratory
15 care,” “the practice of respiratory care,” and “the practice of respiratory
16 therapy” means the care and services provided by or under the direction and
17 supervision of a respiratory therapist or respiratory care practitioner.

18 (23) “Respiratory therapy licensing authority” means the agency, board,
19 or other body of a state that is responsible for licensing and regulation of
20 respiratory therapists.

1 (24) “Rule” means a regulation promulgated by an entity that has the
2 force and effect of law.

3 (25) “Scope of practice” means the procedures, actions, and processes a
4 respiratory therapist licensed in a state or practicing under a Compact privilege
5 in a state is permitted to undertake in that state and the circumstances under
6 which the respiratory therapist is permitted to undertake those procedures,
7 actions, and processes. Such procedures, actions, and processes, and the
8 circumstances under which they may be undertaken, may be established
9 through means, including, but not limited to, statute, regulations, case law, and
10 other processes available to the state respiratory therapy licensing authority or
11 other government agency.

12 (26) “Significant investigative information” means information, records,
13 and documents received or generated by a state respiratory therapy licensing
14 authority pursuant to an investigation for which a determination has been made
15 that there is probable cause to believe that the licensee has violated a statute or
16 regulation that is considered more than a minor infraction for which the state
17 respiratory therapy licensing authority could pursue adverse action against the
18 licensee.

19 (27) “State” means any state, commonwealth, district, or territory of the
20 United States.

1 § 4724. STATE PARTICIPATION IN THIS COMPACT

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

4 (1) enact a Compact that is not materially different from the model
5 Compact;

6 (2) license respiratory therapists;
7 (3) participate in the Commission's data system;
8 (4) have a mechanism in place for receiving and investigating
9 complaints against licensees and Compact privilege holders;

10 (5) notify the Commission, in compliance with the terms of this
11 Compact and Commission rules, of any adverse action against a licensee, a
12 Compact privilege holder, or a license applicant;

13 (6) notify the Commission, in compliance with the terms of this
14 Compact and Commission rules, of the existence of significant investigative
15 information;

16 (7) comply with the rules of the Commission;
17 (8) grant the Compact privilege to a holder of an active home state
18 license and otherwise meet the applicable requirements of section 4725 of this
19 subchapter in a member state; and

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

1 (A) Where expressly authorized or permitted by federal law, whether
2 such federal law is in effect prior to, at, or after the time of a member state's
3 enactment of this Compact, a member state's enactment of this Compact shall
4 hereby authorize the member state's respiratory therapy licensing authority to
5 perform criminal background checks as defined herein.

6 (B) The absence of such a federal law as described in this subdivision
7 (9) shall not prevent or preclude such authorization where it may be derived or
8 granted through means other than the enactment of this Compact.

9 (b) Nothing in this Compact prohibits a member state from charging a fee
10 for granting and renewing the Compact privilege.

11 § 4725. COMPACT PRIVILEGE

12 (a) To exercise the Compact privilege under the terms and provisions of the
13 Compact, the licensee shall:

14 (1) hold and maintain an active home state license as a respiratory
15 therapist;

16 (2) hold and maintain an active credential from the National Board for
17 Respiratory Care, or its successor, that would qualify them for licensure in the
18 remote state in which they are seeking the privilege;

19 (3) have not had any adverse action against a license within the previous
20 two years;

1 section to maintain the Compact privilege in a remote state. If those
2 requirements are met, no adverse actions are taken, and the licensee has paid
3 any applicable Compact privilege renewal fees, then the licensee will maintain
4 the licensee's Compact privilege.

5 (c) A licensee providing respiratory therapy in a remote state under the
6 Compact privilege shall function within the scope of practice authorized by the
7 remote state for the type of respiratory therapist license the licensee holds.
8 Such procedures, actions, processes, and the circumstances under which they
9 may be undertaken may be established through means, including, but not
10 limited to, statute, regulations, case law, and other processes available to the
11 state respiratory therapy licensing authority or other government agency.

12 (d) If a licensee's Compact privilege in a remote state is removed by the
13 remote state, the individual shall lose or be ineligible for the Compact privilege
14 in that remote state until the Compact privilege is no longer limited or
15 restricted by that state.

16 (e) If a home state license is encumbered, the licensee shall lose the
17 Compact privilege in all remote states until the following occur:
18 (1) the home state license is no longer encumbered; and
19 (2) two years have elapsed from the date on which the license is no
20 longer encumbered due to the adverse action.

1 (f) Once a licensee with a restricted or limited license meets the
2 requirements of subdivisions (e)(1) and (2) of this section, the licensee must
3 also meet the requirements of subsection (a) of this section to obtain a
4 Compact privilege in a remote state.

5 **§ 4726. ACTIVE MILITARY MEMBER OR THEIR SPOUSE**

6 (a) An active military member, or the service member's spouse, shall
7 designate a home state where the individual has a current license in good
8 standing. The individual may retain the home state designation during the
9 period the service member is on active duty.

10 (b) An active military member and the service member's spouse shall not
11 be required to pay to the Commission for a Compact privilege any fee that may
12 otherwise be charged by the Commission. If a remote state chooses to charge
13 a fee for a Compact privilege, it may choose to charge a reduced fee or no fee
14 to an active military member and their spouse for a Compact privilege.

15 **§ 4727. ADVERSE ACTIONS**

16 (a) A member state in which a licensee is licensed shall have authority to
17 impose adverse action against the license issued by that member state.

18 (b) A member state may take adverse action based on significant
19 investigative information of a remote state or the home state, provided the
20 member state follows its own procedures for imposing adverse action.

1 (c) Nothing in this Compact shall override a member state's decision that
2 participation in an alternative program may be used in lieu of adverse action
3 and that such participation shall remain nonpublic if required by the member
4 state's laws.

5 (d) A remote state shall have the authority to:

6 (1) take adverse actions as set forth herein against a licensee's Compact
7 privilege in that state; and

8 (2) issue subpoenas for both hearings and investigations that require the
9 attendance and testimony of witnesses, and the production of evidence.

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

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

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

1 (D) The issuing authority shall pay any witness fees, travel expenses,
2 mileage, and other fees required by the service statutes of the state where the
3 witnesses or evidence are located.

4 (i) Unless otherwise prohibited by state law, recover from the
5 licensee the costs of investigations and disposition of cases resulting from any
6 adverse action taken against that licensee.

7 (ii) Notwithstanding subdivisions (A)–(C) of this subdivision
8 (d)(2) in this section, a member state may not issue a subpoena to gather
9 evidence of conduct in another member state that is lawful in such other
10 member state for the purpose of taking adverse action against a licensee's
11 Compact privilege or application for a Compact privilege in that member state.

12 (iii) Nothing in this Compact authorizes a member state to impose
13 discipline against a respiratory therapist's Compact privilege in that member
14 state for the individual's otherwise lawful practice in another state.

15 (e) Joint investigations.

16 (1) In addition to the authority granted to a member state by its
17 respective respiratory therapy practice act or other applicable state law, a
18 member state may participate with other member states in joint investigations
19 of licensees; provided, however, that a member state receiving such a request
20 has no obligation to respond to any subpoena issued regarding an investigation

1 of conduct or practice that was lawful in a member state at the time it was
2 undertaken.

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

9 (f) Nothing in this Compact may permit a member state to take any adverse
10 action against a licensee or holder of a Compact privilege for conduct or
11 practice that was legal in the member state at the time it was undertaken.

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

16 § 4728. ESTABLISHMENT OF THE RESPIRATORY CARE INTERSTATE

17 COMPACT COMMISSION

18 (a) The Compact member states hereby create and establish a joint
19 government agency whose membership consists of all member states that have
20 enacted the Compact known as the Respiratory Care Interstate Compact
21 Commission. The Commission is an instrumentality of the Compact member

1 states acting jointly and not an instrumentality of any one state. The
2 Commission shall come into existence on or after the effective date of the
3 Compact, as set forth in section 4732 of this subchapter.

4 (b) Membership, voting, and meetings.

5 (1) Each member state shall have and be limited to one commissioner
6 selected by that member state's respiratory therapy licensing authority.

7 (2) The commissioner shall be an administrator or their designated staff
8 member of the member state's respiratory therapy licensing authority.

9 (3) The Commission shall by rule or bylaw establish a term of office for
10 commissioners and may by rule or bylaw establish term limits.

11 (4) The Commission may recommend to a member state the removal or
12 suspension of any commissioner from office.

13 (5) A member state's respiratory therapy licensing authority shall fill
14 any vacancy of its commissioner occurring on the Commission within 60 days
15 of the vacancy.

16 (6) Each commissioner shall be entitled to one vote on all matters before
17 the Commission requiring a vote by commissioners.

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

1 (8) The Commission shall meet at least once during each calendar year.

2 Additional meetings may be held as set forth in the bylaws.

3 (c) The Commission shall have the following powers:

4 (1) establish and amend the fiscal year of the Commission;

5 (2) establish and amend bylaws and policies, including but not limited
6 to, a code of conduct and conflict of interest;

7 (3) establish and amend rules, which shall be binding in all member
8 states;

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

10 (5) meet and take such actions as are consistent with the provisions of
11 this Compact, the Commission's rules, and the bylaws;

12 (6) initiate and conduct legal proceedings or actions in the name of the
13 Commission, provided that the standing of any respiratory therapy licensing
14 authority to sue or be sued under applicable law shall not be affected;

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

18 (8) purchase and maintain insurance and bonds;

19 (9) accept or contract for services of personnel, including, but not
20 limited to, employees of a member state;

21 (10) conduct an annual financial review;

1 (11) hire employees, elect or appoint officers, fix compensation, define
2 duties, grant such individuals appropriate authority to carry out the purposes of
3 the Compact, and establish the Commission's personnel policies and programs
4 relating to conflicts of interest, qualifications of personnel, and other related
5 personnel matters;

6 (12) assess and collect fees;

7 (13) accept any and all appropriate gifts, donations, grants of money,
8 other sources of revenue, equipment, supplies, materials, and services, and
9 receive, utilize, and dispose of the same, provided that at all times:

10 (A) the Commission shall avoid any appearance of impropriety; and
11 (B) the Commission shall avoid any appearance of conflict of
12 interest;

13 (14) lease, purchase, retain, own, hold, improve, or use any property,
14 real, personal, or mixed, or any undivided interest therein;

15 (15) sell, convey, mortgage, pledge, lease, exchange, abandon, or
16 otherwise dispose of any property real, personal, or mixed;

17 (16) establish a budget and make expenditures;

18 (17) borrow money in a fiscally responsible manner;

19 (18) appoint committees, including standing committees, composed of
20 commissioners, state regulators, state legislators or their representatives, and

1 consumer representatives, and such other interested persons as may be
2 designated in this Compact and the bylaws;

3 (19) provide and receive information from, and cooperate with, law
4 enforcement agencies;

5 (20) establish and elect an executive committee, including a chair, vice-
6 chair, secretary, treasurer, and such other offices as the Commission shall
7 establish by rule or bylaw;

8 (21) enter into contracts or arrangements for the management of the
9 affairs of the Commission;

10 (22) determine whether a state's adopted language is materially different
11 from the model Compact language such that the state would not qualify for
12 participation in the Compact; and

13 (23) perform such other functions as may be necessary or appropriate to
14 achieve the purposes of this Compact.

15 (d) The executive committee.

16 (1) The executive committee shall have the power to act on behalf of the
17 Commission according to the terms of this Compact. The powers, duties, and
18 responsibilities of the executive committee shall include:

19 (A) overseeing the day-to-day activities of the administration of the
20 Compact, including enforcement and compliance with the provisions of the
21 Compact, its rules and bylaws, and other such duties as deemed necessary;

1 (B) recommending to the Commission changes to the rules or
2 bylaws, changes to this Compact legislation, fees charged to Compact member
3 states, fees charged to licensees, and other fees;

4 (C) ensuring Compact administration services are appropriately
5 provided, including by contract;

6 (D) preparing and recommending the budget;

7 (E) maintaining financial records on behalf of the Commission;

8 (F) monitoring Compact compliance of member states and providing
9 compliance reports to the Commission;

10 (G) establishing additional committees as necessary;

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

15 (I) performing other duties as provided in the rules or bylaws of the
16 Commission.

17 (2) The executive committee shall be composed of up to nine members,
18 as further set forth in the bylaws of the Commission:

19 (A) seven voting members who are elected by the Commission from
20 the current membership of the Commission; and

21 (B) two ex-officio, nonvoting members.

1 (3) The Commission may remove any member of the executive
2 committee as provided in the Commission's bylaws.

3 (4) The executive committee shall meet at least annually.

4 (A) Executive committee meetings shall be open to the public, except
5 that the executive committee may meet in a closed, nonpublic meeting as
6 provided in subdivision (f)(4) of this section.

7 (B) The executive committee shall give advance notice of its
8 meetings, posted on its website and as determined to provide notice to persons
9 with an interest in the business of the Commission.

10 (C) The executive committee may hold a special meeting in
11 accordance with subdivision (f)(2) of this section.

12 (e) The Commission shall adopt and provide to the member states an
13 annual report.

14 (f) Meetings of the Commission.

15 (1) All meetings of the Commission that are not closed pursuant to
16 subdivision (4) of this subsection shall be open to the public. Notice of public
17 meetings shall be posted on the Commission's website at least 30 days prior to
18 the public meeting.

19 (2) Notwithstanding subdivision (1) of this subsection, the Commission
20 may convene an emergency public meeting by providing at least 24 hours'
21 prior notice on the Commission's website, and any other means as provided in

1 the Commission's rules, for any of the reasons it may dispense with notice of
2 proposed rulemaking under subsection 4730(g) of this subchapter. The
3 Commission's legal counsel shall certify that one of the reasons justifying an
4 emergency public meeting has been met.

5 (3) Notice of all Commission meetings shall provide the time, date, and
6 location of the meeting, and if the meeting is to be held or accessible via
7 telecommunication, video conference, or other electronic means, the notice
8 shall include the mechanism for access to the meeting.

9 (4) The Commission or the executive committee may convene in a
10 closed, nonpublic meeting for the Commission or executive committee to
11 receive or solicit legal advice or to discuss:

12 (A) noncompliance of a member state with its obligations under the
13 Compact;

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

16 (C) current or threatened discipline of a licensee or Compact
17 privilege holder by the Commission or by a member state's respiratory therapy
18 licensing authority;

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

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

1 shall remain under seal, subject to release only by a majority vote of the
2 Commission or order of a court of competent jurisdiction.

3 (g) Financing of the Commission.

4 (1) The Commission shall pay, or provide for the payment of, the
5 reasonable expenses of its establishment, organization, and ongoing activities.

6 (2) The Commission may accept any and all appropriate revenue
7 sources as provided herein.

8 (3) The Commission may levy on and collect an annual assessment from
9 each member state and impose fees on licensees of member states to whom it
10 grants a Compact privilege to cover the cost of the operations and activities of
11 the Commission and its staff. The aggregate annual assessment amount for
12 member states, if any, shall be allocated based upon a formula that the
13 Commission shall promulgate by rule.

14 (4) The Commission shall not incur obligations of any kind prior to
15 securing the funds or a loan adequate to meet the same; nor shall the
16 Commission pledge the credit of any of the member states, except by and with
17 the authority of the member state.

18 (5) The Commission shall keep accurate accounts of all receipts and
19 disbursements. The receipts and disbursements of the Commission shall be
20 subject to the financial review and accounting procedures established under its
21 bylaws. However, all receipts and disbursements of funds handled by the

1 Commission shall be subject to an annual financial review by a certified or
2 licensed public accountant, and the report of the financial review shall be
3 included in and become part of the annual report of the Commission.

4 (h) Qualified immunity, defense, and indemnification.

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

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

20 (3) The Commission shall defend any commissioner, officer, executive
21 director, employee, and agent of the Commission in any civil action seeking to

1 impose liability arising out of any actual or alleged act, error, or omission that
2 occurred within the scope of Commission employment, duties, or
3 responsibilities, or as determined by the Commission that the person against
4 whom the claim is made had a reasonable basis for believing occurred within
5 the scope of Commission employment, duties, or responsibilities, provided that
6 nothing herein shall be construed to prohibit that person from retaining their
7 own counsel at their own expense, and provided further that the actual or
8 alleged act, error, or omission did not result from that person's intentional or
9 willful or wanton misconduct.

10 (4) The Commission shall indemnify and hold harmless any
11 commissioner, member, officer, executive director, employee, and agent of the
12 Commission for the amount of any settlement or judgment obtained against
13 that person arising out of any actual or alleged act, error, or omission that
14 occurred within the scope of Commission employment, duties, or
15 responsibilities, or that such person had a reasonable basis for believing
16 occurred within the scope of Commission employment, duties, or
17 responsibilities, provided that the actual or alleged act, error, or omission did
18 not result from the intentional or willful or wanton misconduct of that person.

19 (5) Nothing in this Compact shall be interpreted to waive or otherwise
20 abrogate a member state's state action immunity or state action affirmative

1 defense with respect to antitrust claims under the Sherman Act, Clayton Act, or
2 any other state or federal antitrust or anticompetitive law or regulation.

3 (6) Nothing in this Compact shall be construed to be a waiver of
4 sovereign immunity by the member states or by the Commission.

5 § 4729. DATA SYSTEM

6 (a) The Commission shall provide for the development, maintenance,
7 operation, and utilization of a coordinated database and reporting system
8 containing licensure, adverse action, and the presence of significant
9 investigative information.

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

13 (1) identifying information;
14 (2) licensure data;
15 (3) adverse actions against a licensee, license applicant, or Compact
16 privilege holder and information related thereto;

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

1 (5) any denial of application for licensure, and the reason or reasons for
2 such denial;

3 (6) the presence of current significant investigative information; and
4 (7) other information that may facilitate the administration of this
5 Compact or the protection of the public, as determined by the rules of the
6 Commission.

7 (c) No member state shall submit any information that constitutes criminal
8 history record information, as defined by applicable federal law, to the data
9 system established hereunder.

10 (d) The records and information provided to a member state pursuant to
11 this Compact or through the data system, when certified by the Commission or
12 an agent thereof, shall constitute the authenticated business records of the
13 Commission and shall be entitled to any associated hearsay exception in any
14 relevant judicial, quasi-judicial, or administrative proceedings in a member
15 state.

16 (e) Significant investigative information pertaining to a licensee in any
17 member state will only be available to other member states.

18 (f) It is the responsibility of the member states to report any adverse action
19 against a licensee and to monitor the database to determine whether adverse
20 action has been taken against a licensee. Adverse action information

1 pertaining to a licensee in any member state will be available to any other
2 member state.

3 (g) Member states contributing information to the data system may
4 designate information that may not be shared with the public without the
5 express permission of the contributing state.

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

9 § 4730. RULEMAKING

10 (a) The Commission shall promulgate reasonable rules in order to
11 effectively and efficiently implement and administer the purposes and
12 provisions of the Compact. A rule shall be invalid and have no force or effect
13 only if a court of competent jurisdiction holds that the rule is invalid because
14 the Commission exercised its rulemaking authority in a manner that is beyond
15 the scope and purposes of the Compact, or the powers granted hereunder, or
16 based upon another applicable standard of review.

17 (b) For purposes of the Compact, the rules of the Commission shall have
18 the force of law in each member state.

19 (c) The Commission shall exercise its rulemaking powers pursuant to the
20 criteria set forth in this section and the rules adopted thereunder. Rules shall
21 become binding as of the date specified in each rule.

1 (d) If a majority of the legislatures of the member states rejects a rule or
2 portion of a rule, by enactment of a statute or resolution in the same manner
3 used to adopt the Compact within four years of the date of adoption of the rule,
4 then such rule shall have no further force and effect in any member state.

5 (e) Rules shall be adopted at a regular or special meeting of the
6 Commission.

7 (f) Prior to adoption of a proposed rule, the Commission shall hold a public
8 hearing and allow persons to provide oral and written comments, data, facts,
9 opinions, and arguments.

10 (g) Prior to adoption of a proposed rule by the Commission, and at least 30
11 days in advance of the meeting at which the Commission will hold a public
12 hearing on the proposed rule, the Commission shall provide a notice of
13 proposed rulemaking:

14 (1) on the website of the Commission or other publicly accessible
15 platform;

16 (2) to persons who have requested notice of the Commission's notices
17 of proposed rulemaking; and

18 (3) in such other ways as the Commission may by rule specify.

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

20 (1) the time, date, and location of the public hearing at which the
21 Commission will hear public comments on the proposed rule and, if different,

1 the time, date, and location of the meeting where the Commission will consider
2 and vote on the proposed rule;

3 (2) if the hearing is held via telecommunication, video conference, or
4 other electronic means, the Commission shall include the mechanism for
5 access to the hearing in the notice of proposed rulemaking;

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

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

9 (5) the manner in which interested persons may submit written
10 comments.

11 (i) All hearings will be recorded. A copy of the recording and all written
12 comments and documents received by the Commission in response to the
13 proposed rule shall be available to the public.

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

17 (k) The Commission shall, by majority vote of all commissioners, take
18 final action on the proposed rule based on the rulemaking record and the full
19 text of the rule.

20 (1) The Commission may adopt changes to the proposed rule, provided
21 the changes are consistent with the original purpose of the proposed rule.

1 (2) The Commission shall provide an explanation of the reasons for
2 substantive changes made to the proposed rule as well as reasons for
3 substantive changes not made that were recommended by commenters.

4 (3) The Commission shall determine a reasonable effective date for the
5 rule. Except for an emergency as provided in subsection (l) of this section, the
6 effective date of the rule shall be not sooner than 30 days after issuing the
7 notice that it adopted or amended the rule.

8 (l) Upon determination that an emergency exists, the Commission may
9 consider and adopt an emergency rule with 24 hours' notice, and with
10 opportunity to comment, provided that the usual rulemaking procedures
11 provided in the Compact and in this section shall be retroactively applied to the
12 rule as soon as reasonably possible, in no event later than 90 days after the
13 effective date of the rule. For the purposes of this provision, an emergency
14 rule is one that must be adopted immediately in order to:

15 (1) meet an imminent threat to public health, safety, or welfare;
16 (2) prevent a loss of Commission or member state funds;
17 (3) meet a deadline for the promulgation of a rule that is established by
18 federal law or rule; or
19 (4) protect public health and safety.

20 (m) The Commission or an authorized committee of the Commission may
21 direct revisions to a previously adopted rule for purposes of correcting

1 typographical errors, errors in format, errors in consistency, or grammatical
2 errors. Public notice of any revisions shall be posted on the website of the
3 Commission. The revision shall be subject to challenge by any person for a
4 period of 30 days after posting. The revision may be challenged only on
5 grounds that the revision results in a material change to a rule. A challenge
6 shall be made in writing and delivered to the Commission prior to the end of
7 the notice period. If no challenge is made, the revision will take effect without
8 further action. If the revision is challenged, the revision may not take effect
9 without the approval of the Commission.

10 (n)(1) No member state's rulemaking process or procedural requirements
11 shall apply to the Commission.

12 (2) The Commission shall have no authority over any member state's
13 rulemaking process or procedural requirements that do not pertain to the
14 Compact.

15 (o) Nothing in this Compact, nor any rule or regulation of the Commission,
16 shall be construed to limit, restrict, or in any way reduce the ability of a
17 member state to enact and enforce laws, regulations, or other rules related to
18 the practice of respiratory therapy in that state, where those laws, regulations,
19 or other rules are not inconsistent with the provisions of this Compact.

20 4731. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

21 (a) Oversight.

1 (1) The executive and judicial branches of state government in each
2 member state shall enforce this Compact and take all actions necessary and
3 appropriate to implement the Compact.

4 (2) Venue is proper and judicial proceedings by or against the
5 Commission shall be brought solely and exclusively in a court of competent
6 jurisdiction where the principal office of the Commission is located. The
7 Commission may waive venue and jurisdictional defenses to the extent it
8 adopts or consents to participate in alternative dispute resolution proceedings.
9 Nothing herein shall affect or limit the selection or propriety of venue in any
10 action against a licensee for professional malpractice, misconduct, or any such
11 similar matter.

12 (3) The Commission shall be entitled to receive service of process in
13 any proceeding regarding the enforcement or interpretation of the Compact and
14 shall have standing to intervene in such a proceeding for all purposes. Failure
15 to provide the Commission service of process shall render a judgment or order
16 void as to the Commission, this Compact, or promulgated rules.

17 (b) Default, technical assistance, and termination.

18 (1) If the Commission determines that a member state has defaulted in
19 the performance of its obligations or responsibilities under this Compact or the
20 promulgated rules, the Commission shall provide written notice to the
21 defaulting state. The notice of default shall describe the default, the proposed

1 means of curing the default, and any other action that the Commission may
2 take and shall offer training and specific technical assistance regarding the
3 default.

4 (2) The Commission shall provide a copy of the notice of default to the
5 other member states.

6 (c) If a state in default fails to cure the default, the defaulting state may be
7 terminated from the Compact upon an affirmative vote of a majority of the
8 commissioners of the member states, and all rights, privileges, and benefits
9 conferred on that state by this Compact may be terminated on the effective
10 date of termination. A cure of the default does not relieve the offending state
11 of obligations or liabilities incurred during the period of default.

12 (d) Termination of membership in the Compact shall be imposed only after
13 all other means of securing compliance have been exhausted. Notice of intent
14 to suspend or terminate shall be given by the Commission to the governor, the
15 majority and minority leaders of the defaulting state's legislature, the
16 defaulting state's respiratory therapy licensing authority, and each of the
17 member states' respiratory therapy licensing authorities.

18 (e) A state that has been terminated is responsible for all assessments,
19 obligations, and liabilities incurred through the effective date of termination,
20 including obligations that extend beyond the effective date of termination, if
21 necessary.

1 (f) Upon the termination of a state's membership from this Compact, that
2 state shall immediately provide notice to all licensees and Compact privilege
3 holders (of which the Commission has a record) within that state of such
4 termination. The terminated state shall continue to recognize all licenses
5 granted pursuant to this Compact for a minimum of 180 days after the date of
6 said notice of termination.

7 (g) The Commission shall not bear any costs related to a state that is found
8 to be in default or that has been terminated from the Compact, unless agreed
9 upon in writing between the Commission and the defaulting state.

10 (h) The defaulting state may appeal the action of the Commission by
11 petitioning the U.S. District Court for the District of Columbia or the federal
12 district where the Commission has its principal offices. The prevailing party
13 shall be awarded all costs of such litigation, including reasonable attorney's
14 fees.

15 (i) Dispute resolution.

16 (1) Upon request by a member state, the Commission shall attempt to
17 resolve disputes related to the Compact that arise among member states and
18 between member and nonmember states.

19 (2) The Commission shall promulgate a rule providing for both
20 mediation and binding dispute resolution for disputes, as appropriate.

21 (j) Enforcement.

1 (1) By majority vote, as may be further provided by rule, the
2 Commission may initiate legal action against a member state in default in the
3 U.S. District Court for the District of Columbia or the federal district where the
4 Commission has its principal offices to enforce compliance with the provisions
5 of the Compact and its promulgated rules. A member state by enactment of
6 this Compact consents to venue and jurisdiction in such court for the purposes
7 set forth herein. The relief sought may include both injunctive relief and
8 damages. In the event judicial enforcement is necessary, the prevailing party
9 shall be awarded all costs of such litigation, including reasonable attorney's
10 fees. The remedies herein shall not be the exclusive remedies of the
11 Commission. The Commission may pursue any other remedies available
12 under federal or the defaulting member state's law.

13 (2) A member state may initiate legal action against the Commission in
14 the U.S. District Court for the District of Columbia or the federal district where
15 the Commission has its principal offices to enforce compliance with the
16 provisions of the Compact and its promulgated rules. The relief sought may
17 include both injunctive relief and damages. In the event judicial enforcement
18 is necessary, the prevailing party shall be awarded all costs of such litigation,
19 including reasonable attorney's fees.

20 (3) No person other than a member state shall enforce this Compact
21 against the Commission.

1 § 4732. EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT

2 (a) The Compact shall come into effect on the date on which the Compact
3 statute is enacted into law in the seventh member state (effective date).

4 (1) On or after the effective date of the Compact, the Commission shall
5 convene and review the enactment of each of the first seven member states
6 (charter member states) to determine if the statute enacted by each such charter
7 member state is materially different than the model Compact.

8 (A) A charter member state whose enactment is found to be
9 materially different from the model Compact shall be entitled to the default
10 process set forth in section 4731 of this subchapter.

11 (B) If any member state is later found to be in default, or is
12 terminated or withdraws from the Compact, the Commission shall remain in
13 existence and the Compact shall remain in effect even if the number of
14 member states should be fewer than seven.

15 (2) Member states enacting the Compact subsequent to the seven initial
16 charter member states shall be subject to the process set forth herein and
17 Commission rule to determine if their enactments are materially different from
18 the model Compact and whether they qualify for participation in the Compact.

19 (3) All actions taken for the benefit of the Commission or in furtherance
20 of the purposes of the administration of the Compact prior to the effective date

1 of the Compact or the Commission coming into existence shall be considered
2 to be actions of the Commission unless specifically repudiated by the
3 Commission. The Commission shall own and have all rights to any
4 intellectual property developed on behalf or in furtherance of the Commission
5 by individuals or entities involved in organizing or establishing the
6 Commission, as may be further set forth in rules of the Commission.

7 (4) Any state that joins the Compact subsequent to the Commission's
8 initial adoption of the rules and bylaws shall be subject to the rules and bylaws
9 as they exist on the date on which the Compact becomes law in that state. Any
10 rule that has been previously adopted by the Commission shall have the full
11 force and effect of law on the date the Compact becomes law in that state.

12 (b) Any member state may withdraw from this Compact by enacting a
13 statute repealing the same.

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

16 (2) Withdrawal shall not affect the continuing requirement of the
17 withdrawing state's respiratory therapy licensing authority to comply with the
18 investigative and adverse action reporting requirements of this Compact prior
19 to the effective date of withdrawal.

20 (3) Upon the enactment of a statute withdrawing from this Compact, a
21 state shall immediately provide notice of such withdrawal to all licensees and

1 Compact privilege holders (of which the Commission has a record) within that
2 state. Notwithstanding any subsequent statutory enactment to the contrary,
3 such withdrawing state shall continue to recognize all licenses granted
4 pursuant to this Compact for a minimum of 180 after the date of such notice of
5 withdrawal.

6 (c) Nothing contained in this Compact shall be construed to invalidate or
7 prevent any licensure agreement or other cooperative arrangement between a
8 member state and a nonmember state that does not conflict with the provisions
9 of this Compact.

10 (d) This Compact may be amended by the member states. No amendment
11 to this Compact shall become effective and binding upon any member state
12 until it is enacted into the laws of all member states.

13 § 4733. CONSTRUCTION AND SEVERABILITY

14 (a) This Compact and the Commission's rulemaking authority shall be
15 liberally construed so as to effectuate the purposes and the implementation and
16 administration of the Compact. Provisions of the Compact expressly
17 authorizing or requiring the promulgation of rules shall not be construed to
18 limit the Commission's rulemaking authority solely for those purposes.

19 (b) The provisions of this Compact shall be severable, and if any phrase,
20 clause, sentence, or provision of this Compact is held by a court of competent
21 jurisdiction to be contrary to the constitution of any member state, a state

1 seeking participation in the Compact, or of the United States, or the
2 applicability thereof to any government, agency, person, or circumstance is
3 held to be unconstitutional by a court of competent jurisdiction, the validity of
4 the remainder of this Compact and the applicability thereof to any other
5 government, agency, person, or circumstance shall not be affected thereby.

6 (c) Notwithstanding subsection (b) of this section, the Commission may
7 deny a state's participation in the Compact or, in accordance with the
8 requirements of section 4731 of this subchapter, terminate a member state's
9 participation in the Compact, if it determines that a constitutional requirement
10 of a member state is a material departure from the Compact. Otherwise, if this
11 Compact shall be held to be contrary to the constitution of any member state,
12 the Compact shall remain in full force and effect as to the remaining member
13 states and in full force and effect as to the member state affected as to all
14 severable matters.

15 § 4734. CONSISTENT EFFECT AND CONFLICT WITH OTHER STATE

16 LAW

17 (a) Nothing herein shall prevent or inhibit the enforcement of any other law
18 of a member state that is not inconsistent with the Compact.

19 (b) Any laws, statutes, regulations, or other legal requirements in a member
20 state in conflict with the Compact are superseded to the extent of the conflict,
21 including any subsequently enacted state laws.

1 (c) All permissible agreements between the Commission and the member
2 states are binding in accordance with their terms.

3 (d) Other than as expressly set forth herein, nothing in this Compact will
4 impact initial licensure.

5 Sec. 2. EFFECTIVE DATE

6 This act shall take effect on July 1, 2026.