

Sixty-ninth  
Legislative Assembly  
of North Dakota

**SENATE BILL NO. 2341**

Introduced by

Senators Axtman, Boschee, Roers

Representatives Ista, Schreiber-Beck

1 A BILL for an Act to create and enact a new chapter to title 15.1 of the North Dakota Century  
2 Code, relating to the adoption of the interstate compact for school psychologists.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** A new chapter to title 15.1 of the North Dakota Century Code is created and  
5 enacted as follows:

6 **Interstate compact for school psychologists.**

7 The interstate compact for school psychologists is entered with all states legally joining the  
8 compact, in the form substantially as follows:

9 **ARTICLE I - PURPOSE**

10 1. The purpose of this compact is to facilitate the interstate practice of school psychology  
11 in educational or school settings, and in so doing to improve the availability of school  
12 psychological services to the public. This compact is intended to establish a pathway  
13 to allow school psychologists to obtain equivalent licenses to provide school  
14 psychological services in any member state. In this way, this compact shall enable the  
15 member states to ensure that safe and effective school psychological services are  
16 available and delivered by appropriately qualified professionals in their educational  
17 settings.

18 2. To facilitate the objectives described above, this compact:

19 a. Enables school psychologists who qualify for receipt of an equivalent license to  
20 practice in other member states without first satisfying burdensome and  
21 duplicative requirements;

22 b. Promotes the mobility of school psychologists between and among the member  
23 states in order to address workforce shortages and to ensure safe and reliable  
24 school psychological services are available in each member state;

- c. Enhances the public accessibility of school psychological services by increasing the availability of qualified, licensed school psychologists through the establishment of an efficient and streamlined pathway for licensees to practice in other member states;
- d. Preserves and respects the authority of each member state to protect the health and safety of its residents by ensuring only qualified, licensed professionals are authorized to provide school psychological services within that state;
- e. Requires school psychologists practicing within a member state to comply with the scope of practice laws present in the state where the school psychological services are being provided;
- f. Promotes cooperation between the member states in regulating the practice of school psychology within those states; and
- g. Facilitates the relocation of military members and their spouses who are licensed to provide school psychological services.

## **ARTICLE II - DEFINITIONS**

1. "Active military member" means any person with full-time duty status in the armed forces of the United States, including members of the national guard and reserve.
2. "Adverse action" means disciplinary action or encumbrance imposed on a license by a state licensing authority.
3. "Alternative program" means a nondisciplinary, prosecutorial diversion, monitoring, or practice remediation process entered in lieu of an adverse action which is applicable to a school psychologist and approved by the state licensing authority of a member state in which the participating school psychologist is licensed. This includes programs to which licensees with substance abuse or addiction issues may be referred in lieu of an adverse action.
4. "Commissioner" means the individual appointed by a member state to serve as the representative to the commission for that member state.
5. "Compact" means the school psychologist interstate licensure compact.
6. "Continuing professional education" means a requirement imposed by a member state as a condition of license renewal to provide evidence of successful participation in

1           professional educational activities relevant to the provision of school psychological  
2           services.

3       7.   "Criminal background check" means the submission of fingerprints or other biometric  
4           information for a license applicant for the purpose of obtaining the applicant's criminal  
5           history record information, as defined in 28 CFR 20.3(d), and the state's criminal  
6           history record repository, as defined in 28 CFR 20.3(f).

7       8.   "Doctoral-level degree" means a graduate degree program consisting of at least ninety  
8           graduate semester hours in the field of school psychology including a supervised  
9           internship.

10      9.   "Encumbered license" means a license a state licensing authority has limited in any  
11           way other than through an alternative program, including temporary or provisional  
12           licenses.

13      10. "Equivalent license" means a license to practice school psychology which a member  
14           state has identified as a license that may be provided to school psychologists from  
15           other member states pursuant to the compact.

16      11. "Executive committee" means the commission's chair, vice chair, secretary, and  
17           treasurer and any other commissioners as may be determined by commission rule or  
18           bylaw.

19      12. "Home state" means the member state that issued the home state license to the  
20           licensee and is the licensee's primary state of practice.

21      13. "Home state license" means the license that is not an encumbered license issued by  
22           the home state to provide school psychological services.

23      14. "License" means a current license, certification, or other authorization granted by a  
24           member state's licensing authority that permits an individual to provide school  
25           psychological services.

26      15. "Licensee" means an individual who holds a license from a member state to provide  
27           school psychological services.

28      16. "Member state" means a state that has enacted the compact and been admitted to the  
29           commission under the provisions herein and commission rules.

- 1        17. "Model compact" means the model language for the school psychologist interstate  
2        licensure compact on file with the council of state governments or other entity as  
3        designated by the commission.
- 4        18. "Practice of school psychology" means the delivery of school psychological services.
- 5        19. "Qualifying national examination" means a national licensing examination endorsed by  
6        the national association of school psychologists and any other examination as  
7        approved by the rules of the commission.
- 8        20. "Qualifying school psychologist education program" means an education program that  
9        awards a specialist-level or doctoral-level degree or equivalent upon completion and is  
10       approved by the rules of the commission as meeting the necessary minimum  
11       educational standards to ensure that its graduates are ready, qualified, and able to  
12       engage in the practice of school psychology.
- 13       21. "Remote state" means a member state other than the home state where a licensee  
14       holds a license through the compact.
- 15       22. "Rule" means a regulation promulgated by an entity, including the commission and the  
16       state licensing authority of each member state, which has the force of law.
- 17       23. "School psychological services" means academic, mental and behavioral health  
18       services including assessment, prevention, consultation and collaboration,  
19       intervention, and evaluation provided by a school psychologist in a school, as outlined  
20       in applicable professional standards as determined by commission rule.
- 21       24. "School psychologist" means an individual who has met the requirements to obtain a  
22       home state license that legally conveys the professional title of school psychologist, or  
23       its equivalent as determined by the rules of the commission.
- 24       25. "School psychologist interstate licensure compact commission" or "commission"  
25       means the joint government agency established by this compact whose membership  
26       consists of representatives from each member state that has enacted the compact, as  
27       described in article VII.
- 28       26. "Scope of practice" means the procedures, actions, and processes a school  
29       psychologist licensed in a state is permitted to undertake in the state and the  
30       circumstances under which the licensee is permitted to undertake those procedures,  
31       actions, and processes. The procedures, actions, and processes, and the

1 circumstances under which they may be undertaken, may be established through  
2 means, including statute, regulations, case law, and other processes available to the  
3 state licensing authority or other government agency.

4 27. "Specialist-level degree" means a degree program requiring at least sixty graduate  
5 semester hours or equivalent in the field of school psychology, including a supervised  
6 internship.

7 28. "State" means any state, commonwealth, district, or territory of the United States of  
8 America.

9 29. "State licensing authority" means a member state's regulatory body responsible for  
10 issuing licenses or otherwise overseeing the practice of school psychology.

11 30. "State-specific requirement" means a requirement for licensure covered in coursework  
12 or examination, including content of unique interest to the state.

13 31. "Unencumbered license" means a license that authorizes a licensee to engage in the  
14 full and unrestricted practice of school psychology.

### 15 **ARTICLE III - STATE PARTICIPATION IN THE COMPACT**

16 1. To be eligible to join this compact, and to maintain eligibility as a member state, a state  
17 must:

18 a. Enact a compact statute that is not materially different from the model compact  
19 as defined in the commission's rules;

20 b. Participate in the sharing of information with other member states as reasonably  
21 necessary to accomplish the objectives of this compact, and as further defined in  
22 article VIII;

23 c. Identify and maintain with the commission a list of equivalent licenses available to  
24 licensees who hold a home state license under this compact;

25 d. Have a mechanism in place for receiving and investigating complaints about  
26 licensees;

27 e. Notify the commission, in compliance with the terms of the compact and the  
28 commission's rules, of any adverse action taken against a licensee, or of the  
29 availability of investigative information which relates to a licensee or applicant for  
30 licensure;

31 f. Require that applicants for a home state license have:

- 1                   (1) Taken and passed a qualifying national examination as defined by the rules
- 2                   of the commission;
- 3                   (2) Completed a minimum of one thousand two hundred hours of supervised
- 4                   internship, of which at least six hundred must have been completed in a
- 5                   school, prior to being approved for licensure;
- 6                   (3) Graduated from a qualifying school psychologist education program;
- 7                   g. Comply with the terms of the compact and the rules of the commission.
- 8                   2. Each member state shall grant an equivalent license to practice school psychology in
- 9                   the state upon application by a licensee who satisfies the criteria of subdivision a of
- 10                  subsection 1 of article IV. Each member state shall grant renewal of the equivalent
- 11                  license to a licensee who satisfies the criteria of subdivision b of subsection 1 of
- 12                  article IV.
- 13                  3. A member state may set and collect a fee for granting an equivalent license.

#### **ARTICLE IV - SCHOOL PSYCHOLOGIST PARTICIPATION IN THE COMPACT**

- 15               1. To obtain and maintain an equivalent license from a remote state under the compact, a
- 16               licensee must:
- 17               a. Hold and maintain an active home state license;
- 18               b. Satisfy any applicable state specific requirements established by the member
- 19               state after an equivalent license is granted;
- 20               c. Complete any administrative or application requirements that the commission
- 21               may establish by rule, and pay any associated fees;
- 22               d. Complete any requirements for renewal in the home state, including applicable
- 23               continuing professional education requirements; and
- 24               e. Upon the licensee's application to receive a license under this compact, undergo
- 25               a criminal background check in the member state in which the equivalent license
- 26               is sought under the laws and regulations of the member state.
- 27               2. To renew an equivalent license in a member state other than the home state, a
- 28               licensee shall apply for renewal, complete a background check, and pay renewal fees
- 29               as determined by the licensing authority.

#### **ARTICLE V - ACTIVE MILITARY MEMBERS OR THEIR SPOUSES**

1 A licensee who is an active military member or is the spouse of an active military member  
2 shall be deemed to hold a home state license in any of the following locations:

- 3 1. The licensee's permanent residence;
- 4 2. A member state that is the licensee's primary state of practice;
- 5 3. A member state where the licensee has relocated pursuant to a permanent change of  
6 station.

#### 7 **ARTICLE VI - DISCIPLINE - ADVERSE ACTIONS**

- 8 1. Nothing in this compact shall be deemed or construed to limit the authority of a  
9 member state to investigate or impose disciplinary measures on licensees according  
10 to the state practice laws of the member state.
- 11 2. Member states may receive and shall provide files and information regarding the  
12 investigation and discipline, if any, of licensees in other member states upon request.  
13 A member state receiving such information or files shall protect and maintain the  
14 security and confidentiality of the information or files, in at least the same manner the  
15 member state maintains its own investigatory or disciplinary files and information.  
16 Before disclosing any disciplinary or investigatory information received from another  
17 member state, the disclosing state shall communicate its intention and purpose for the  
18 disclosure to the member state that originally provided the information.

#### 19 **ARTICLE VII - ESTABLISHMENT OF THE SCHOOL PSYCHOLOGIST**

##### 20 **INTERSTATE LICENSURE COMPACT COMMISSION**

- 21 1. The member states hereby create and establish a joint government agency whose  
22 membership consists of all member states that have enacted the compact, and the  
23 agency is known as the school psychologist interstate licensure compact commission.  
24 The commission is an instrumentality of the member states acting jointly and not an  
25 instrumentality of any one state. The commission shall come into existence on or after  
26 the effective date of the compact as set forth in article XI.
- 27 2. Membership, voting, and meetings.
  - 28 a. Each member state must have and be limited to one delegate selected by the  
29 member state's state licensing authority.

- 1           **b.**   The delegate must be the primary administrative officer of the member state  
2                   licensing authority or the officer's designee who is an employee of the member  
3                   state licensing authority.
- 4           **c.**   The commission shall by rule or bylaw establish a term of office for delegates and  
5                   may by rule or bylaw establish term limits.
- 6           **d.**   The commission may recommend removal or suspension of any delegate from  
7                   office.
- 8           **e.**   A member state's licensing authority shall fill any vacancy of its delegate  
9                   occurring on the commission within sixty days of the vacancy.
- 10          **f.**   Each delegate must be entitled to one vote on all matters before the commission  
11               requiring a vote by commission delegates.
- 12          **g.**   A delegate shall vote in person or by such other means as provided in the  
13               bylaws. The bylaws may provide for delegates to meet by telecommunication,  
14               videoconference, or other means of communication.
- 15          **h.**   The commission shall meet at least once during each calendar year. Additional  
16               meetings may be held as set forth in the bylaws. The commission may meet by  
17               telecommunication, videoconference, or other similar electronic means.
- 18          **3.**   The commission shall:
  - 19               **a.**   Establish the fiscal year of the commission;
  - 20               **b.**   Establish code of conduct and conflict of interest policies;
  - 21               **c.**   Establish and amend rules and bylaws;
  - 22               **d.**   Establish the procedure through which a licensee may change the licensee's  
23                   home state;
  - 24               **e.**   Maintain the commission's financial records under the bylaws;
  - 25               **f.**   Meet and take actions consistent with the provisions of this compact, the  
26                   commission's rules, and the bylaws;
  - 27               **g.**   Initiate and conclude legal proceedings or actions in the name of the commission,  
28                   provided the standing of any member state licensing authority to sue or be sued  
29                   under applicable law may not be affected;

- 1           h. Maintain and certify records and information provided to a member state as the  
2           authenticated business records of the commission, and designate an agent to do  
3           so on the commission's behalf;
- 4           i. Purchase and maintain insurance and bonds;
- 5           j. Borrow, accept, or contract for services of personnel, including employees of a  
6           member state;
- 7           k. Conduct an annual financial review;
- 8           l. Hire employees, elect or appoint officers, fix compensation, define duties, grant  
9           the individuals appropriate authority to carry out the purposes of the compact,  
10          and establish the commission's personnel policies and programs relating to  
11          conflicts of interest, qualifications of personnel, and other related personnel  
12          matters;
- 13          m. Assess and collect fees;
- 14          n. Accept any and all appropriate gifts, donations, grants of money, other sources of  
15          revenue, equipment, supplies, materials, and services, and receive, use, and  
16          dispose of the same; provided at all times the commission avoids any  
17          appearance of impropriety or conflict of interest;
- 18          o. Lease, purchase, retain, own, hold, improve, or use any property, real, personal,  
19          or mixed, or any undivided interest in the property;
- 20          p. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose  
21          of any property, real, personal, or mixed;
- 22          q. Establish a budget and make expenditures;
- 23          r. Borrow money;
- 24          s. Appoint committees, including standing committees, composed of members,  
25          state regulators, state legislators or their representatives, and consumer  
26          representatives, and such other interested persons as may be designated in the  
27          compact and the bylaws;
- 28          t. Provide and receive information from, and cooperate with, law enforcement  
29          agencies;
- 30          u. Establish and elect an executive committee, including a chair and a vice chair;

v. 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

w. Perform other functions as may be necessary or appropriate to achieve the purposes of this compact.

4. The executive committee.

a. 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:

(1) Oversee 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 duties as deemed necessary;

(2) Recommend to the commission changes to the rules or bylaws, changes to

this compact legislation, fees charged to member states, fees charged to

licensees, and other fees;

(3) Ensure compact administration services are appropriately provided,

including by contract;

(4) Prepare and recommend the budget;

(5) Maintain financial records on behalf of the commission;

(6) Monitor compact compliance of member states and provide compliance

reports to the commission;

(7) Establish additional committees as necessary;

(8) Exercise 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

(9) Other duties under the rules or bylaws of the commission.

b. The executive committee is composed of up to seven members:

(1) The chair and vice chair of the commission are voting members of the

executive committee; and

(2) The commission shall elect five voting members from the current membership of the commission.

c. The commission may remove any member of the executive committee under the commission's bylaws.

d. The executive committee shall meet at least annually.

(1) Executive committee meetings must be open to the public, except that the executive committee may meet in a closed, nonpublic meeting as provided in subdivision b of subsection 6.

(2) The executive committee shall give a thirty-day notice of its meetings, posted on its website and as determined to provide notice to persons with an interest in the business of the commission.

(3) The executive committee may hold a special meeting in accordance with paragraph 2 of subdivision a of subsection 6.

5. The commission shall adopt and provide to the member states an annual report.

6. Meetings of the commission.

a. All meetings must be open to the public, except the commission may meet in a closed, nonpublic meeting as provided in subdivision b.

(1) Public notice for all meetings of the full commission must be given in the same manner as required under the rulemaking provisions in article IX, except the commission may hold a special meeting as provided in paragraph 2.

(2) The commission may hold a special meeting if the commission must meet to conduct emergency business by giving a forty-eight-hour notice to all commissioners, on the commission's website, and by other means as provided in the commission's rules. The commission's legal counsel shall certify the commission's need to meet qualifies as an emergency.

b. The commission or the executive committee or other committees of the commission may convene in a closed, nonpublic meeting for the commission or executive committee or other committees of the commission to receive legal advice or to discuss:

- (1) Noncompliance of a member state with the state's obligations under the compact;
- (2) The employment, compensation, discipline or other matters, practices, or procedures related to specific employees;
- (3) Current or threatened discipline of a licensee by the commission or by a member state's licensing authority;
- (4) Current, threatened, or reasonably anticipated litigation;
- (5) Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;
- (6) Accusing a person of a crime or formally censuring a person;
- (7) Trade secrets or commercial or financial information that is privileged or confidential;
- (8) Information of a personal nature if disclosure would constitute a clearly unwarranted invasion of personal privacy;
- (9) Investigative records compiled for law enforcement purposes;
- (10) Information related to a 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;
- (11) Matters specifically exempted from disclosure by federal or member state law; or
- (12) Other matters as promulgated by the commission by rule.

- c. If a meeting, or portion of a meeting, is closed, the presiding officer shall state the meeting will be closed and reference each relevant exempting provision, and the reference must be recorded in the minutes.
- d. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action must be identified in the minutes. All minutes and documents of a closed meeting must remain under seal,

1                   subject to release only by a majority vote of the commission or order of a court of  
2                   competent jurisdiction.

3       7.   Financing of the commission.

4           a.   The commission shall pay, or provide for the payment of, the reasonable  
5               expenses of its establishment, organization, and ongoing activities.

6           b.   The commission may accept any and all appropriate revenue sources as  
7               provided in subdivision n of subsection 3.

8           c.   The commission may levy on and collect an annual assessment from each  
9               member state and impose fees on licensees practicing in the member states  
10              under an equivalent license to cover the cost of the operations and activities of  
11              the commission and its staff, which must be in a total amount sufficient to cover  
12              the commission's annual budget as approved each year for which revenue is not  
13              provided by other sources. The aggregate annual assessment amount for  
14              member states must be allocated based upon a formula the commission shall  
15              promulgate by rule.

16          d.   The commission may not incur obligations of any kind before securing the funds  
17              adequate to meet the obligations; nor may the commission pledge the credit of  
18              any of the member states, except by and with the authority of the member state.

19          e.   The commission shall keep accurate accounts of all receipts and disbursements.  
20              The receipts and disbursements of the commission must be subject to the  
21              financial review and accounting procedures established under its bylaws.  
22              However, all receipts and disbursements of funds handled by the commission are  
23              subject to an annual financial review by a certified or licensed public accountant,  
24              and the report of the financial review must be included in and become part of the  
25              annual report of the commission.

26       8.   Qualified immunity, defense, and indemnification.

27          a.   The members, officers, executive director, employees, and representatives of the  
28              commission are immune from suit and liability, both personally and in the  
29              individual's official capacity, for any claim for damage to or loss of property or  
30              personal injury or other civil liability caused by or arising out of any actual or  
31              alleged act, error, or omission that occurred, or that the person against whom the

1 claim is made had a reasonable basis for believing occurred within the scope of  
2 commission employment, duties, or responsibilities; provided nothing in this  
3 paragraph may be construed to protect the individual from suit or liability for any  
4 damage, loss, injury, or liability caused by the intentional or willful or wanton  
5 misconduct of the individual. The procurement of insurance of any type by the  
6 commission may not in any way compromise or limit the immunity granted  
7 hereunder.

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

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

27 d. Nothing in this compact may be construed as a limitation on the liability of any  
28 licensee for professional malpractice or misconduct, which must be governed  
29 solely by any other applicable state laws.

30 e. Nothing in this compact may be interpreted to waive or otherwise abrogate a  
31 member state's state action immunity or state action affirmative defense with

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

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

#### 5 **ARTICLE VIII - FACILITATING INFORMATION EXCHANGE**

6 1. The commission shall provide for facilitating the exchange of information to administer  
7 and implement the provisions of this compact in accordance with the rules of the  
8 commission, consistent with generally accepted data protection principles.

9 2. Notwithstanding any other provision of state law to the contrary, a member state shall  
10 agree to provide for the facilitation of the following licensee information as required by  
11 the rules of the commission, including:

12 a. Identifying information;

13 b. Licensure data;

14 c. Adverse actions against a license and information related to the actions;

15 d. Nonconfidential information related to alternative program participation, the  
16 beginning and ending dates of the participation, and other information related to  
17 the participation not made confidential under member state law;

18 e. Any denial of application for licensure, and reason for the denial;

19 f. The presence of investigative information; and

20 g. Other information that may facilitate the administration of this compact or the  
21 protection of the public under the rules of the commission.

22 3. Nothing in this compact may be deemed or construed to alter, limit, or inhibit the power  
23 of a member state to control and maintain ownership of the state's licensee  
24 information or alter, limit, or inhibit the laws or regulations governing licensee  
25 information in the member state.

#### 26 **ARTICLE IX - RULEMAKING**

27 1. The commission shall exercise its rulemaking powers pursuant to the criteria set forth  
28 in this interstate compact and the rules adopted under the compact. Rules and  
29 amendments are binding as of the date specified in each rule or amendment.

30 2. The commission shall promulgate reasonable rules to achieve the intent and purpose  
31 of this interstate compact. If the commission exercises rulemaking authority in a

1 manner beyond the purpose and intent of the interstate compact, or the powers  
2 granted under the compact, then the action by the commission is invalid and has no  
3 force and effect of law in the member states.

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

8 4. Rules or amendments to the rules must be adopted or ratified at a regular or special  
9 meeting of the commission in accordance with commission rules and bylaws.

10 5. Before promulgation and adoption of a final rule or rules by the commission, and at  
11 least thirty days in advance of the meeting at which the rule will be considered and  
12 voted upon, the commission shall file a notice of proposed rulemaking on the website  
13 of:

14 a. The commission or other publicly accessible platform; and

15 b. Each member state licensing authority or other publicly accessible platform or the  
16 publication in which each state would otherwise publish proposed rules.

17 6. Upon determination that an emergency exists, the commission may consider and  
18 adopt an emergency rule with a forty-eight-hour notice, with opportunity to comment,  
19 provided the usual rulemaking procedures are retroactively applied to the rule as soon  
20 as reasonably possible, no later than ninety days after the effective date of the rule.  
21 For the purposes of this provision, an emergency rule is one that must be adopted  
22 immediately in order to:

23 a. Meet an imminent threat to public health, safety, or welfare;

24 b. Prevent a loss of commission or member state funds;

25 c. Meet a deadline for the promulgation of an administrative rule that is established  
26 by federal law or rule; or

27 d. Protect public health and safety.

28 **ARTICLE X - OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT**

29 1. Oversight.

- 1           a. The executive and judicial branches of the state government in each member  
2           state shall enforce the compact and take all actions necessary and appropriate to  
3           implement the compact.
- 4           b. Venue is proper and judicial proceedings by or against the commission must be  
5           brought solely and exclusively in a court of competent jurisdiction where the  
6           principal office of the commission is located. The commission may waive venue  
7           and jurisdictional defenses to the extent it adopts or consents to participate in  
8           alternative dispute resolution proceedings. Nothing in the compact affects or  
9           limits the selection or propriety of venue in any action against a licensee for  
10          professional malpractice, misconduct, or any such similar matter.
- 11          c. The commission may receive service of process in any proceeding regarding the  
12          enforcement or interpretation of the compact and has standing to intervene in the  
13          proceeding for all purposes. Failure to provide the commission service of process  
14          renders a judgment or order void as to the commission, this compact, or  
15          promulgated rules.

16        2. Default, technical assistance, and termination.

- 17          a. If the commission determines that a member state has defaulted in the  
18          performance of its obligations or responsibilities under this compact or the  
19          promulgated rules, the commission must provide written notice to the defaulting  
20          state. The notice of default must describe the default, the proposed means of  
21          curing the default, and any other action the commission may take, and must offer  
22          training and specific technical assistance regarding the default.
- 23          b. The commission shall provide a copy of the notice of default to the other member  
24          states.

25        3. If a state in default fails to cure the default, the defaulting state may be terminated  
26          from the compact upon an affirmative vote of a supermajority of the delegates of the  
27          member states, and all rights, privileges, and benefits conferred on that state by this  
28          compact may be terminated on the effective date of termination. A cure of the default  
29          does not relieve the offending state of obligations or liabilities incurred during the  
30          period of default.

- 1       4. Termination of membership in the compact may be imposed after all other means of  
2       securing compliance have been exhausted. Notice of intent to suspend or terminate  
3       must be given by the commission to the governor, the majority and minority leaders of  
4       the defaulting state's legislature, the defaulting state's licensing authority, and each of  
5       the member state's licensing authorities.
- 6       5. A state that has been terminated is responsible for all assessments, obligations, and  
7       liabilities incurred through the effective date of termination, including obligations that  
8       extend beyond the effective date of termination.
- 9       6. Upon the termination of a state's membership from this compact, the state  
10      immediately shall provide notice to all licensees within the state of the termination. The  
11      terminated state shall continue to recognize all licenses granted pursuant to this  
12      compact for a minimum of six months after the date of the notice of termination.
- 13      7. The commission shall not bear any costs related to a state that is found to be in  
14      default or that has been terminated from the compact, unless agreed upon in writing  
15      between the commission and the defaulting state.
- 16      8. The defaulting state may appeal the action of the commission by petitioning the United  
17      States district court for the District of Columbia or the federal district where the  
18      commission has its principal offices. The prevailing party must be awarded all costs of  
19      the litigation, including reasonable attorney's fees.
- 20      9. Dispute resolution.
  - 21      a. Upon request by a member state, the commission shall attempt to resolve  
22      disputes related to the compact that arise among member states and between  
23      member and nonmember states.
  - 24      b. The commission shall promulgate a rule providing for both mediation and binding  
25      dispute resolution for disputes as appropriate.
- 26      10. Enforcement.
  - 27      a. By majority vote as provided by rule, the commission may initiate legal action  
28      against a member state in default in the United States district court for the District  
29      of Columbia or the federal district where the commission has its principal offices  
30      to enforce compliance with the provisions of the compact and its promulgated  
31      rules. The relief sought may include both injunctive relief and damages. In the

1 event judicial enforcement is necessary, the prevailing party must be awarded all  
2 costs of the litigation, including reasonable attorney's fees. The remedies herein  
3 may not be the exclusive remedies of the commission. The commission may  
4 pursue any other remedies available under federal or the defaulting member  
5 state's law.

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

13 c. A person other than a member state may not enforce this compact against the  
14 commission.

#### 15 **ARTICLE XI - EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT**

16 1. The compact is effective on the date on which the compact statute is enacted into law  
17 in the seventh member state.

18 a. On or after the effective date of the compact under subsection 1, the commission  
19 shall convene and review the enactment of each of the charter member states to  
20 determine whether the statute enacted by each charter member state is  
21 materially different than the model compact statute.

22 (1) Charter member state whose enactment is found to be materially different  
23 from the model compact statute must be entitled to the default process set  
24 forth in article X.

25 (2) If any member state later is found to be in default, or is terminated or  
26 withdraws from the compact, the commission must remain in existence and  
27 the compact must remain in effect even if the number of member states is  
28 less than seven.

29 b. A member state enacting the compact subsequent to the charter member states  
30 is subject to the process under subdivision v of subsection 3 of article VII to

determine if the enactment is materially different from the model compact statute and whether the member state qualifies for participation in the compact.

c. All actions taken for the benefit of the commission or in furtherance of the purposes of the administration of the compact before the effective date of the compact or the commission coming into existence are considered to be actions of the commission unless specifically repudiated by the commission.

(1) Any state that joins the compact subsequent to the commission's initial adoption of the rules and bylaws is subject to the rules and bylaws as they exist on the date on which the compact becomes law in that state. Any rule that has previously been adopted by the commission has the full force and effect of law on the day the compact becomes law in that state.

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

2. A member state's withdrawal may not take effect until one hundred eighty days after enactment of the repealing statute.

3. Withdrawal may not affect the continuing requirement of the withdrawing state's licensing authority to comply with the investigative and adverse action reporting requirements of this compact prior to the effective date of withdrawal.

4. Upon the enactment of a statute withdrawing from this compact, a state shall immediately provide notice of the withdrawal to all licensees within that state. Notwithstanding any subsequent statutory enactment to the contrary, the withdrawing state shall continue to recognize all licenses granted pursuant to this compact for a minimum of six months after the date of the notice of withdrawal.

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

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

## **ARTICLE XII - CONSTRUCTION AND SEVERABILITY**

- 1       1. This compact and the commission's rulemaking authority must be liberally construed  
2       so as to effectuate the purposes and the implementation and administration of the  
3       compact. Provisions of the compact expressly authorizing or requiring the  
4       promulgation of rules may not be construed to limit the commission's rulemaking  
5       authority solely for those purposes.
- 6       2. The provisions of this compact are severable and if any phrase, clause, sentence or  
7       provision of the compact is held by a court of competent jurisdiction to be contrary to  
8       the constitution of any member state, a state seeking participation in the compact, or  
9       of the United States, or the applicability thereof to any government, agency, person, or  
10      circumstance is held to be unconstitutional by a court of competent jurisdiction, the  
11      validity of the remainder of this compact and the applicability of the compact to any  
12      other government, agency, person, or circumstance is not affected thereby.
- 13      3. Notwithstanding subsection 2 of this section, the commission may deny a state's  
14      participation in the compact or, in accordance with the requirements of subsection 2 of  
15      article X, terminate a member state's participation in the compact, if the commission  
16      determines a constitutional requirement of a member state is a material departure  
17      from the compact. Otherwise, if this compact is held to be contrary to the constitution  
18      of any member state, the compact must remain in full force and effect as to the  
19      remaining member states and in full force and effect as to the member state affected  
20      as to all severable matters.

#### 21      **ARTICLE XIII - CONSISTENT EFFECT AND CONFLICT WITH OTHER STATE LAWS**

- 22      1. Nothing in this compact may prevent or inhibit the enforcement of any other law of a  
23      member state that is consistent with the compact.
- 24      2. Any laws, statutes, regulations, or other legal requirements in a member state in  
25      conflict with the compact are superseded to the extent of the conflict.
- 26      3. All permissible agreements between the commission and the member states are  
27      binding in accordance with the terms of the agreements.