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SENATE . . . . . No. 2542

The Commonwealth of Massachusetts

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CHARLES D. BAKER
GOVERNOR

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LIEUTENANT GOVERNOR

September 24, 2021

To the Honorable Senate and House of Representatives,

Massachusetts has a long, proud history of supporting the members of our Armed Forces and their families who make great sacrifices by virtue of their service, not the least of which is accepting the need to move among different duty stations multiple times during the service member's career. As those military families move to a new home in Massachusetts, family members may face challenges in navigating their chosen profession's licensing requirements, particularly because those requirements are not always uniform across state lines. Recognizing both those sacrifices and that difficulty, the Commonwealth must reduce or eliminate barriers that could hinder gainful employment and household stability for military family members.

To that end, on February 17, 2021, I issued Executive Order 593 to promote timely and efficient reciprocal licensing for military families licensed in certain occupations and professions. That Order directed the Division of Public Licensure – now the Division of Occupational Licensure – to identify ways to facilitate interstate license portability in five specific professions that the Department of Defense and Air Force identified as being of particular importance for military family members.

In its report on its work, the Division found that the five boards already prioritize to a substantial degree professional licensure for military family members. For example, since January 1, 2021, the average processing time for the application of a military spouse under the five covered boards is approximately one to two weeks. That success is attributable to both the

statutory mandates of the Valor Act 1 & 2, passed by the Legislature in 2012 and 2014, respectively, as well as independent actions taken by the Division and its licensing boards.

But the report also concluded that there is more the Commonwealth can do for its military families, and the bill I am filing today, "An Act to Support Military Families," acts on that conclusion by authorizing Massachusetts to join existing interstate compacts that govern the physical therapy and psychology professions. Massachusetts has long been a leader in ensuring that its licensed professions are highly trained to practice in their fields safely and competently. In certain cases, but not all, the standards to become licensed in Massachusetts are the same or very similar to standards required in other states. Joining these compacts will streamline the process for physical therapists to transfer a license and permit psychologists to practice virtually across state lines.

While not encompassed by my Executive Order, the legislation also authorizes Massachusetts to join the Nurse Licensure Compact, consistent with the 2021 recommendation of the Massachusetts Health Policy Commission. Permitting nurses licensed in other compact states to work in the Commonwealth enhances the state's efforts to respond to the changing health care delivery landscape by decreasing barriers to the provision of nursing care and helping ensure the availability of licensed nurses in times of great need, such as Massachusetts has experienced during the COVID pandemic.

Massachusetts' membership in these three compacts will simplify and improve the licensing and continued practice of physical therapists, psychologists, and nurses when they move between states, while ensuring that the public continues to be served by highly qualified practitioners. I look forward to working with the Legislature to enact this legislation to ensure that military family members experience no professional interruptions as they start the next chapter of their lives in the Commonwealth.

Respectfully submitted

Charles D. Baker,
Governor

SENATE . . . . . No. 2542

Senate, September 27, 2021 -- Message from His Excellency the Governor recommending legislation to support military families

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

An Act to support military families.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Subsection (c) of section 14 of chapter 13 of the General Laws, as appearing in the 2018 Official Edition, is hereby amended by inserting, in line 4, after the words "twelve,", the following words:- and chapter one hundred and twelve C.

SECTION 2. Section 23I of chapter 112 of the General Laws, as so appearing, is hereby amended by inserting after subsection (d) the following subsection:-

(e) complete a fingerprint-based check of the state and national criminal history databases, as authorized by 28 CFR 20.33 and Public Law 92-544, as part of the licensure and background check process for the board of allied health professions to determine the suitability of an applicant.

Fingerprints shall be submitted to the identification section of the department of state police for a state criminal history check and forwarded to the Federal Bureau of Investigation for a national criminal history check, according to the policies and procedures established by the state identification section and by the department of criminal justice information services. The

department of state police and Federal Bureau of Investigation are expressly authorized to search criminal justice databases including all latent fingerprint submissions. Fingerprint submissions may be retained by the Federal Bureau of Investigation, the state identification section and the department of criminal justice information services for requests submitted by the board of allied health professions as authorized under this section to ensure the suitability of these individuals for licensure. The department of criminal justice information services shall disseminate the results of the state and national criminal background checks to the executive director of the board of allied health professions and authorized staff of the board. The department of criminal justice information services shall only disseminate information under this section that would otherwise be available to the board of allied health professions as provided in this section.

All applicants shall pay a fee to be established by the secretary of administration and finance, in consultation with the secretary of public safety, to offset the costs of operating and administering a fingerprint-based criminal background check system. The secretary of administration and finance, in consultation with the secretary of public safety, may increase the fee accordingly if the Federal Bureau of Investigation increases its fingerprint background check service fee. The board may pay the fee on behalf of applicants or reimburse applicants for all or part of the fee on the grounds of financial hardship. Any fees collected from fingerprinting activity under this chapter shall be deposited into the Fingerprint-Based Background Check Trust Fund, established in section 2HHHH of chapter 29.

The board of allied health professions may receive all criminal offender record information and the results of checks of state and national criminal history databases under said Public Law 92-544, but they shall not receive juvenile adjudications and delinquency matters or sealed records. When the board of allied health professions obtains the results of checks of state

and national criminal history databases, it shall treat the information according to sections 167 to 178, inclusive, of chapter 6 and the regulations thereunder regarding criminal offender record information.

Notwithstanding subsections 9 and 9½ of section 4 of chapter 151B, if the board of allied health professions receives criminal record information from the state or national fingerprint-based criminal background checks that includes no disposition or is otherwise incomplete, the board may request that an applicant for licensure provide additional information regarding the results of the criminal background checks to assist the board in determining the applicant's suitability for licensure.

SECTION 3. Section 23J of said chapter 112 is hereby amended by inserting after subsection (c) the following subsection:-

(d) complete a fingerprint-based check of the state and national criminal history databases, as authorized by 28 CFR 20.33 and Public Law 92-544, as part of the licensure and background check process for the board of allied health professions to determine the suitability of an applicant.

Fingerprints shall be submitted to the identification section of the department of state police for a state criminal history check and forwarded to the Federal Bureau of Investigation for a national criminal history check, according to the policies and procedures established by the state identification section and by the department of criminal justice information services. The department of state police and Federal Bureau of Investigation are expressly authorized to search criminal justice databases including all latent fingerprint submissions. Fingerprint submissions may be retained by the Federal Bureau of Investigation, the state identification section and the

department of criminal justice information services for requests submitted by the board of allied health professions as authorized under this section to ensure the suitability of these individuals for licensure. The department of criminal justice information services shall disseminate the results of the state and national criminal background checks to the executive director of the board of allied health professions and authorized staff of the board. The department of criminal justice information services shall only disseminate information under this section that would otherwise be available to the board of allied health professions as provided in this section.

All applicants shall pay a fee to be established by the secretary of administration and finance, in consultation with the secretary of public safety, to offset the costs of operating and administering a fingerprint-based criminal background check system. The secretary of administration and finance, in consultation with the secretary of public safety, may increase the fee accordingly if the Federal Bureau of Investigation increases its fingerprint background check service fee. The board may pay the fee on behalf of applicants or reimburse applicants for all or part of the fee on the grounds of financial hardship. Any fees collected from fingerprinting activity under this chapter shall be deposited into the Fingerprint-Based Background Check Trust Fund, established in section 2HHHH of chapter 29.

The board of allied health professions may receive all criminal offender record information and the results of checks of state and national criminal history databases under said Public Law 92-544, but they shall not receive juvenile adjudications and delinquency matters or sealed records. When the board of allied health professions obtains the results of checks of state and national criminal history databases, it shall treat the information according to sections 167 to 178, inclusive, of chapter 6 and the regulations thereunder regarding criminal offender record information.

Notwithstanding subsections 9 and 9½ of section 4 of chapter 151B, if the board of allied health professions receives criminal record information from the state or national fingerprint-based criminal background checks that includes no disposition or is otherwise incomplete, the board may request that an applicant for licensure provide additional information regarding the results of the criminal background checks to assist the board in determining the applicant's suitability for licensure.

SECTION 4. Section 79 of said chapter 112 is hereby amended by adding the following two sentences:-

The board may assess a licensed nurse a penalty of not more than $2,000 for each violation of regulations promulgated pursuant to this section and for each violation of any general law that governs the practice of nursing. The board, through regulation, shall ensure that any fine levied is commensurate with the severity of the violation.

SECTION 5. Section 119 of said chapter 112 is hereby amended by inserting after subsection (e) the following subsection:-

(f) has completed a fingerprint-based check of the state and national criminal history databases, as authorized by 28 CFR 20.33 and Public Law 92-544, as part of the licensure and background check process for the board of registration of psychologists to determine the suitability of an applicant.,

Fingerprints shall be submitted to the identification section of the department of state police for a state criminal history check and forwarded to the Federal Bureau of Investigation for a national criminal history check, according to the policies and procedures established by the state identification section and by the department of criminal justice information services. The

department of state police and Federal Bureau of Investigation are expressly authorized to search criminal justice databases including all latent fingerprint submissions. Fingerprint submissions may be retained by the Federal Bureau of Investigation, the state identification section and the department of criminal justice information services for requests submitted by the board of registration of psychologists as authorized under this section to ensure the suitability of these individuals for licensure. The department of criminal justice information services shall disseminate the results of the state and national criminal background checks to the executive director of the board of registration of psychologists and authorized staff of the board. The department of criminal justice information services shall only disseminate information under this section that would otherwise be available to the board of registration of psychologists as provided in this section.

All applicants shall pay a fee to be established by the secretary of administration and finance, in consultation with the secretary of public safety, to offset the costs of operating and administering a fingerprint-based criminal background check system. The secretary of administration and finance, in consultation with the secretary of public safety, may increase the fee accordingly if the Federal Bureau of Investigation increases its fingerprint background check service fee. The board may pay the fee on behalf of applicants or reimburse applicants for all or part of the fee on the grounds of financial hardship. Any fees collected from fingerprinting activity under this chapter shall be deposited into the Fingerprint-Based Background Check Trust Fund, established in section 2HHHH of chapter 29.

The board of registration of psychologists may receive all criminal offender record information and the results of checks of state and national criminal history databases under said Public Law 92-544, but they shall not receive juvenile adjudications and delinquency matters or

sealed records. When the board of registration of psychologists obtains the results of checks of state and national criminal history databases, it shall treat the information according to sections 167 to 178, inclusive, of chapter 6 and the regulations thereunder regarding criminal offender record information.

Notwithstanding subsections 9 and 9½ of section 4 of chapter 151B, if the board of registration of psychologists receives criminal record information from the state or national fingerprint-based criminal background checks that includes no disposition or is otherwise incomplete, the board may request that an applicant for licensure provide additional information regarding the results of the criminal background checks to assist the board in determining the applicant's suitability for licensure.

SECTION 6. The General Laws are hereby amended by inserting after chapter 112 the following chapter:-

CHAPTER 112A Physical Therapy Licensure Compact

Section 1.

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

This compact is designed to achieve the following objectives:

(a) Increase public access to physical therapy services by providing for the mutual recognition of other member state licenses;

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

(c) Encourage the cooperation of member states in regulating multi-state physical therapy practice;

(d) Support spouses of relocating military members;

(e) Enhance the exchange of licensure, investigative, and disciplinary information between member states; and

(f) Allow a remote state to hold a provider of services with a compact privilege in that state accountable to that state's practice standards.

Section 2.

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

"Active-duty military", full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Section 1209 and 1211.

"Adverse action", disciplinary action taken by a physical therapy licensing board based upon misconduct, unacceptable performance, or a combination of both.

"Alternative program", a non-disciplinary monitoring or practice remediation process approved by a physical therapy licensing board. This includes, but is not limited to, substance abuse issues.

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

"Continuing competence", a requirement, as a condition of license renewal, to provide evidence of participation in, or completion of, educational and professional activities relevant to practice or area of work.

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

"Encumbered license", a license that a physical therapy licensing board has limited in any way.

"Executive board", a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the commission.

"Home state", the member state that is the licensee's primary state of residence.

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

"Jurisprudence Requirement", the assessment of an individual's knowledge of the laws and rules governing the practice of physical therapy in a state.

"Licensee", an individual who currently holds an authorization from the state to practice as a physical therapist or to work as a physical therapist assistant.

"Member state", a state that has enacted the compact.

"Party state", any member state in which a licensee holds a current license or compact privilege or is applying for a license or compact privilege.

"Physical therapist", an individual who is licensed by a state to practice physical therapy.

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

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

"Physical therapy compact" or "PT compact", an agreement among member states, established and governed by the physical therapy compact, to increase the mobility of eligible physical therapy providers to work in member states.

"Physical therapy compact commission" or "commission", the national administrative body whose membership consists of all states that have enacted the compact.

"Physical therapy licensing board" or "licensing board", the agency of a state that is responsible for the licensing and regulation of physical therapists and physical therapist assistants.

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

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

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

Section 3.

(a) To participate in the compact, a state must:

(1) Participate fully in the commission's data system, including using the commission's unique identifier as defined in rules;

(2) Have a mechanism in place for receiving and investigating complaints about licensees;

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

(4) Fully implement a criminal background check requirement, within a time frame established by rule, by receiving the results of the Federal Bureau of Investigation record search on criminal background checks and use the results in making licensure decisions in accordance with subsection (b) of section 3;

(5) Comply with the rules of the commission;

(6) Utilize a recognized national examination as a requirement for licensure pursuant to the rules of the commission; and

(7) Have continuing competence requirements as a condition for license renewal.

(b) Upon adoption of this statute, the member state shall have the authority to obtain biometric-based information from each physical therapy licensure applicant and submit this information to the Federal Bureau of Investigation for a criminal background check in accordance with 28 U.S.C. §534 and 42 U.S.C. §14616.

(c) A member state shall grant the compact privilege to a licensee holding a valid unencumbered license in another member state in accordance with the terms of the compact and rules.

(d) Member states may charge a fee for granting a compact privilege

Section 4.

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

(1) Hold a license in the home state;

(2) Have no encumbrance on any state license;

(3) Be eligible for a compact privilege in any member state in accordance with subsections (d), (g) and (h) of section 4;

(4) Have not had any adverse action against any license or compact privilege within the previous 2 years;

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

(6) Pay any applicable fees, including any state fee, for the compact privilege;

(7) Meet any jurisprudence requirements established by the remote state(s) in which the licensee is seeking a compact privilege; and

(8) Report to the commission adverse action taken by any non-member state within 30 days from the date the adverse action is taken.

(b) The compact privilege is valid until the expiration date of the home license. The licensee must comply with the requirements of subsection (a) of section 4. to maintain the compact privilege in the remote state.

(c) A licensee providing physical therapy in a remote state under the compact privilege shall function within the laws and regulations of the remote state.

(d) A licensee providing physical therapy in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's laws, remove a licensee's compact privilege in the remote state for a specific period of time, impose fines, or take any other necessary actions to protect the health and safety of its citizens. The licensee is not eligible for a compact privilege in any state until the specific time for removal has passed and all fines are paid.

(e) If a home state license is encumbered, the licensee shall lose the compact privilege in any remote state until the following occur:

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

(2) Two years have elapsed from the date of the adverse action.

(f) Once an encumbered license in the home state is restored to good standing, the licensee must meet the requirements of subsection (a) of section 4 to obtain a compact privilege in any remote state.

(g) If a licensee's compact privilege in any remote state is removed, the individual shall lose the compact privilege in any remote state until the following occur:

(1) The specific period of time for which the compact privilege was removed has ended;

(2) All fines have been paid; and

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

(h) Once the requirements of subsection (g) of section 4 have been met, the license must meet the requirements in subsection (a) of section 4 to obtain a compact privilege in a remote state.

Section 5.

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

(1) Home of record;

(2) Permanent change of station (PCS); or

(3) State of current residence if it is different than the PCS state or home of record.

Section 6.

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

(b) A home state may take adverse action based on the investigative information of a remote state, so long as the home state follows its own procedures for imposing adverse action.

(c) Nothing in this compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action and that such participation shall remain non-public if required by the member state's laws. Member states must require licensees who enter any alternative programs in lieu of discipline to agree not to practice in any other member state during the term of the alternative program without prior authorization from such other member state.

(d) Any member state may investigate actual or alleged violations of the statutes and rules authorizing the practice of physical therapy in any other member state in which a physical therapist or physical therapist assistant holds a license or compact privilege.

(e) A remote state shall have the authority to:

(1) Take adverse actions as set forth in subsection (d) of section 4 against a licensee's compact privilege in the state;

(2) Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses, and the production of evidence. Subpoenas issued by a physical therapy licensing board in a party state for the attendance and testimony of witnesses, or the production of evidence from another party state, shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to

subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses or evidence are located; and

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

(f) Joint Investigations

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

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

Section 7.

(a) The compact member states hereby create and establish a joint public agency known as the physical therapy compact commission:

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

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

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

(b) Membership, Voting, and Meetings

(1) Each member state shall have and be limited to 1 delegate selected by that member state's licensing board.

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

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

(4) The member state board shall fill any vacancy occurring in the commission.

(5) Each delegate shall be entitled to 1 vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission.

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

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

(c) The commission shall have the following powers and duties:

(1) Establish the fiscal year of the commission;

(2) Establish bylaws;

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

(4) Meet and take such actions as are consistent with the provisions of this compact and the bylaws;

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

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

(7) Purchase and maintain insurance and bonds;

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

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

(10) Accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same; provided that at all times the commission shall avoid any appearance of impropriety or conflict of interest;

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

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

(13) Establish a budget and make expenditures;

(14) Borrow money;

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

(16) Provide and receive information from, and cooperate with, law enforcement agencies;

(17) Establish and elect an executive board; and

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

(d) The Executive Board

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

(1) The executive board shall be composed of 9 members: 7 voting members who are elected by the Commission from the current membership of the commission; 1 ex-officio, nonvoting member from the recognized national physical therapy professional association; and 1 ex-officio, nonvoting member from the recognized membership organization of the physical therapy licensing boards.

(2) The ex-officio members will be selected by their respective organizations.

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

(4) The executive board shall meet at least annually.

(5) The executive board shall have the following duties and responsibilities: (i) recommend to the entire commission changes to the rules or bylaws, changes to this compact legislation, fees paid by compact member states such as annual dues, and any commission compact fee charged to licensees for the compact privilege; (ii) ensure compact administration services are appropriately provided, contractual or otherwise; (iii) prepare and recommend the budget; (iv) maintain financial records on behalf of the commission; (v) monitor compact compliance of member states and provide compliance reports to the commission; (vi) establish additional committees as necessary; and (vii) other duties as provided in rules or bylaws.

(e) Meetings of the Commission

(1) All meetings of the commission shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in section 9.

(2) The commission or the executive board or other committees of the commission may convene in a closed, non-public meeting if the commission or executive board or other committees of the commission must discuss: (i) non-compliance of a member state with its obligations under the compact; (ii) the employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures; (iii) current, threatened, or reasonably anticipated litigation; (iv) negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate; (v) accusing any person of a crime or formally censuring any person; (vi) disclosure of trade secrets or commercial or financial information that is privileged or confidential; (vii) disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy; (viii) disclosure of investigative records compiled for law enforcement purposes; (ix) disclosure of information related to any investigative reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact; or (x) matters specifically exempted from disclosure by federal or member state statute.

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

(4) 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 shall be identified in such minutes. All minutes and documents of a

closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

(f) Financing of the Commission

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

(2) The commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

(3) The commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the commission, which shall promulgate a rule binding upon all member states.

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

(5) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant,

and the report of the audit shall be included in and become part of the annual report of the commission.

(g) Qualified Immunity, Defense and Indemnification

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

(2) The commission shall defend any member, officer, executive director, employee or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person’s intentional or willful or wanton misconduct.

(3) The commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission

that occurred within the scope of commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

Section 8.

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

(b) Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system on all individuals to whom this compact is applicable as required by the rules of the commission, including:

(1) Identifying information;

(2) Licensure data;

(3) Adverse actions against a license or compact privilege;

(4) Non-confidential information related to alternative program participation;

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

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

(c) Investigative information pertaining to a licensee in any member state will only be available to other party states.

(d) The commission shall promptly notify all member states of any adverse action taken against a licensee or an individual applying for a license. Adverse action information pertaining to a licensee in any member state will be available to any other member state.

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

(f) Any information submitted to the data system that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the data system.

Section 9.

(a) The commission shall exercise its rulemaking powers pursuant to criteria set forth in this Section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or the amendment.

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

(c) Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.

(d) Prior to promulgation and adoption of a final rule or rules by the commission, and at least 30 days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:

(1) On the website of the commission or other publicly accessible platform; and

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

(e) The notice of proposed rulemaking shall include:

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

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

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

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

(f) Prior to adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

(g) The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

(1) At least 25 persons;

(2) A state or federal governmental subdivision or agency; or

(3) An association having at least 25 members.

(h) If a hearing is held on the proposed rule or amendment, the commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the commission shall publish the mechanism for access to the electronic hearing.

(1) All persons wishing to be heard at the hearing shall notify the executive director of the commission or other designated member in writing of their desire to appear and testify at the hearing not less than 5 business days before the scheduled date of the hearing.

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

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

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

(i) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

(j) If no written notice of intent to attend the public hearing by interested parties is received, the commission may proceed with promulgation of the proposed rule without a public hearing.

(k) The commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

(l) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

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

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

(3) Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or

(4) Protect public health and safety.

(m) The commission or an authorized committee of the commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the commission. The revision shall be subject to challenge by any person for a period of 30 days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the chair of the commission prior to the end of the notice

period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

Section 10.

(a) Oversight

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

(2) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the commission.

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

(b) Default, Technical Assistance, and Termination

(1) If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall: (i) provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default or any other action to be taken by the

commission; and (ii) provide remedial training and specific technical assistance regarding the default.

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

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

(4) A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

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

(6) The defaulting state may appeal the action of the commission by petitioning the United States district court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

(c) Dispute Resolution

(1) Upon request by a member state, the commission shall attempt to resolve disputes related to the compact that arise among member states and between member and non-member states.

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

(d) Enforcement

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

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

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

Section 11.

(a) The compact shall come into effect on the date on which the compact statute is enacted into law in the tenth member state. The provisions, which become effective at that time, shall be limited to the powers granted to the commission relating to assembly and the

promulgation of rules. Thereafter, the commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the compact.

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

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

(1) A member state's withdrawal shall not take effect until 6 months after enactment of the repealing statute.

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

(d) Nothing contained in this compact shall be construed to invalidate or prevent any physical therapy licensure agreement or other cooperative arrangement between a member state and a non-member state that does not conflict with the provisions of this compact.

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

Section 12.

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

Section 13.

The executive director of the board of allied health professions, or the board executive director's designee, shall be the administrator of the physical therapy compact for the commonwealth.

Section 14.

The board of allied health professions may promulgate regulations as necessary to implement the provisions of this chapter.

Section 15.

The board of allied health professions may recover from a physical therapist or a physical therapist assistant the costs of investigation and disposition of cases resulting in any adverse disciplinary action taken against that physical therapist's or physical therapist assistant's

privilege to practice. Funds collected pursuant to this section shall be deposited in the Quality in Health Professions Trust Fund established pursuant to section 35X of chapter 10.

Section 16.

The board of allied health professions may take disciplinary action against the practice privilege of a physical therapist or a physical therapist assistant practicing in the commonwealth under a license issued by a member state. The board's disciplinary action may be based on disciplinary action against the physical therapist's or physical therapist assistant's license taken by that licensee's home state.

Section 17.

In reporting information to the coordinated licensure information system under section 8 of this chapter related to the physical therapy compact, the board of allied health professions may disclose personally identifiable information about the physical therapist or physical therapist assistant, including social security number.

Section 18.

This physical therapy compact shall be subject to the applicable laws and regulations of the commonwealth, including chapters 13, 30A and 112 of the general laws.

Section 19.

The compact administrator who represents the commonwealth, as provided in the compact, shall not be entitled to any additional compensation for executing his duties and responsibilities as compact administrator but shall be entitled to reimbursement for reasonable expenses actually incurred in connection with his duties and responsibilities as compact

administrator in the same manner as for expenses incurred in connection with other duties and responsibilities of his office or employment.

SECTION 7. The General Laws are hereby amended by inserting after chapter 112A the following chapter:-

CHAPTER 112B Psychology Interjurisdictional Compact Act

Section 1.

This act shall be known and may be cited as the Psychology Interjurisdictional Compact Act.

Section 2.

The Governor of the Commonwealth of Massachusetts, on behalf of this State, is hereby authorized to execute a compact in substantially the following form with any one or more of the states of the United States and the General Assembly hereby signifies in advance its approval and ratification of the compact.

Section 3.

Whereas, states license psychologists, in order to protect the public through verification of education, training and experience and ensure accountability for professional practice; and

Whereas, this compact is intended to regulate the day to day practice of telepsychology by psychologists across state boundaries in the performance of their psychological practice as assigned by an appropriate authority; and

Whereas, this compact is intended to regulate the temporary in-person, face-to-face practice of psychology by psychologists across state boundaries for 30 days within a calendar year in the performance of their psychological practice as assigned by an appropriate authority;

Whereas, this compact is intended to authorize state psychology regulatory authorities to afford legal recognition, in a manner consistent with the terms of the compact, to psychologists licensed in another state;

Whereas, this compact recognizes that states have a vested interest in protecting the public's health and safety through their licensing and regulation of psychologists and that such state regulation will best protect public health and safety;

Whereas, this compact does not apply when a psychologist is licensed in both the home state and receiving states; and

Whereas, this compact does not apply to permanent in-person, face-to-face practice, it does allow for authorization of temporary psychological practice.

Consistent with these principles, this compact is designed to achieve the following purposes and objectives:

(a) Increase public access to professional psychological services by allowing for telepsychological practice across state lines as well as temporary in-person, face-to-face services into a state which the psychologist is not licensed to practice psychology;

(b) Enhance the states' ability to protect the public's health and safety, especially client/patient safety;

(c) Encourage the cooperation of compact states in the areas of psychology licensure and regulation;

(d) Facilitate the exchange of information between compact states regarding psychologist licensure, adverse actions and disciplinary history;

(e) Promote compliance with the laws governing psychological practice in each compact state; and

(f) Invest all compact states with the authority to hold licensed psychologists accountable through the mutual recognition of compact state licenses.

Section 4.

"Adverse action", any action taken by a state psychology regulatory authority which finds a violation of a statute or regulation that is identified by the state psychology regulatory authority as discipline and is a matter of public record.

"Association of state and provincial psychology boards" or "ASPPB", the recognized membership organization composed of state and provincial psychology regulatory authorities responsible for the licensure and registration of psychologists throughout the United States and Canada.

"Authority to practice interjurisdictional telepsychology", a licensed psychologist's authority to practice telepsychology, within the limits authorized under this compact, in another compact state.

"Bylaws", the bylaws established by the psychology interjurisdictional compact commission pursuant to section 12 for its governance, or for directing and controlling its actions and conduct.

"Client/patient", the recipient of psychological services, whether psychological services are delivered in the context of healthcare, corporate, supervision, or consulting services.

"Commissioner", the voting representative appointed by each state psychology regulatory authority pursuant to section 12.

"Compact state", a state that has enacted this compact legislation and which has not withdrawn pursuant to subsection (c) of section 15 or been terminated pursuant to subsection (b) of section 14.

"Coordinated licensure information system" or "coordinated database", an integrated process for collecting, storing, and sharing information on psychologists' licensure and enforcement activities related to psychology licensure laws, which is administered by the recognized membership organization composed of state and provincial psychology regulatory authorities.

"Confidentiality", the principle that data or information is not made available or disclosed to unauthorized persons or processes.

"Day", any part of a day in which psychological work is performed.

"Distant state", the compact state where a psychologist is physically present (not through the use of telecommunications technologies), to provide temporary in-person, face-to-face psychological services.

"E.Passport", a certificate issued by the Association of State and Provincial Psychology Boards that promotes the standardization in the criteria of interjurisdictional telepsychology practice and facilitates the process for licensed psychologists to provide telepsychological services across state lines.

"Executive board", a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the commission.

"Home state", a compact state where a psychologist is licensed to practice psychology. If the psychologist is licensed in more than one compact state and is practicing under the Authorization to Practice Interjurisdictional Telepsychology, the home state is the compact state where the psychologist is physically present when the telepsychological services are delivered. If the psychologist is licensed in more than one compact state and is practicing under the temporary authorization to practice, the home state is any compact state where the psychologist is licensed.

"Identity history summary", a summary of information retained by the Federal Bureau of Investigation, or other designee with similar authority, in connection with arrests and, in some instances, federal employment, naturalization, or military service.

"In-person, face-to-face", interactions in which the psychologist and the client/patient are in the same physical space and which does not include interactions that may occur through the use of telecommunication technologies.

"Interjurisdictional practice certificate" or "IPC", a certificate issued by the Association of State and Provincial Psychology Boards (ASPPB) that grants temporary authority to practice based on notification to the State Psychology Regulatory Authority of intention to practice temporarily, and verification of one's qualifications for such practice.

"License", authorization by a state psychology regulatory authority to engage in the independent practice of psychology, which would be unlawful without the authorization.

"Non-compact state", any state which is not at the time a compact state.

"Psychologist", an individual licensed for the independent practice of psychology.

"Psychology interjurisdictional compact" or "PSYPACT", an agreement among member states, established and governed by the PSYPACT commission, to facilitate the practice of telepsychology and the temporary in-person, face-to-face practice of psychology across state boundaries.

"Psychology interjurisdictional compact commission" or "commission", the national administration of which all compact states are members.

"Receiving state", a compact state where the client/patient is physically located when the telepsychological services are delivered.

"Rule", a written statement by the Psychology Interjurisdictional Compact Commission promulgated pursuant to section 13 of the compact that is of general applicability, implements, interprets, or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the commission and has the force and effect of statutory law in a compact state, and includes the amendment, repeal or suspension of an existing rule.

"Significant investigatory information", investigative information that a state psychology regulatory authority, after a preliminary inquiry that includes notification and an opportunity to respond if required by state law, has reason to believe, if proven true, would indicate more than a violation of state statute or ethics code that would be considered more substantial than minor

infraction; or investigative information that indicates that the psychologist represents an immediate threat to public health and safety regardless of whether the psychologist has been notified or had an opportunity to respond.

"State", a state, commonwealth, territory, or possession of the United States, and the District of Columbia.

"State psychology regulatory authority", the board, office or other agency with the legislative mandate to license and regulate the practice of psychology.

"Telepsychology", the provision of psychological services using telecommunication technologies.

"Temporary authorization to practice", a licensed psychologist's authority to conduct temporary in-person, face-to-face practice, within the limits authorized under this compact, in another compact state.

"Temporary in-person, face-to-face practice", where a psychologist is physically present (not through the use of telecommunications technologies), in the distant state to provide for the practice of psychology for 30 days within a calendar year and based on notification to the distant state.

Section 5.

(a) The home state shall be a compact state where a psychologist is licensed to practice psychology.

(b) A psychologist may hold one or more compact state licenses at a time. If the psychologist is licensed in more than one compact state, the home state is the compact state

where the psychologist is physically present when the services are delivered as authorized by the authority to practice interjurisdictional telepsychology under the terms of this Compact.

(c) Any compact state may require a psychologist not previously licensed in a compact state to obtain and retain a license to be authorized to practice in the compact state under circumstances not authorized by the authority to practice interjurisdictional telepsychology under the terms of this Compact.

(d) Any compact state may require a psychologist to obtain and retain a license to be authorized to practice in a compact state under circumstances not authorized a temporary authorization to practice under the terms of this compact.

(e) A home state 's license authorizes a psychologist to practice in a receiving state under the authority to practice interjurisdictional telepsychology only if the compact state:

(1) Currently requires the psychologist to hold an active E.Passport;

(2) Has a mechanism in place for receiving and investigating complaints about licensed individuals;

(3) Notifies the commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding a licensed individual;

(4) Requires an identity history summary of all applicants at initial licensure, including the use of the results of fingerprints or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation, or other designee with similar authority, no later than 10 years after activation of the compact; and

(5) Complies with the bylaws and rules of the commission.

(f) A home state's license grants temporary authorization to practice to a psychologist in a distant state only if the compact state:

(1) Currently requires the psychologist to hold an active IPC;

(2) Has a mechanism in place for receiving and investigating complaints about licensed individuals;

(3) Notifies the commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding a licensed individual;

(4) Requires an identity history summary of all applicants at initial licensure, including the use of the results of fingerprints or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation, or other designee with similar authority, no later than 10 years after activation of the compact; and

(5) Complies with the bylaws and rules of the commission.

Section 6.

(a) Compact states shall recognize the right of a psychologist, licensed in a compact state in conformance with section 5, to practice telepsychology in other compact states (receiving states) in which the psychologist is not licensed, under the authority to practice interjurisdictional telepsychology as provided in the compact.

(b) To exercise the authority to practice interjurisdictional telepsychology under the terms and provisions of this compact, a psychologist licensed to practice in a compact state must:

(1) Hold a graduate degree in psychology from an institute of higher education that was, at the time the degree was awarded: (i) regionally accredited by an accrediting body recognized by the United States Department of Education to grant graduate degrees, or authorized by Provincial Statute or Royal Charter to grant doctoral degrees; or (ii) a foreign college or university deemed to be equivalent to 1(a) above by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES) or by a recognized foreign credential evaluation service; and

(2) Hold a graduate degree in psychology that meets the following criteria:

(i) The program, wherever it may be administratively housed, must be clearly identified and labeled as a psychology program. Such a program must specify in pertinent institutional catalogues and brochures its intent to educate and train professional psychologists;

(ii) The psychology program must stand as a recognizable, coherent, organizational entity within the institution;

(iii) There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines;

(iv) The program must consist of an integrated, organized sequence of study;

(v) There must be an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities;

(vi) The designated director of the program must be a psychologist and a member of the core faculty;

(vii) The program must have an identifiable body of students who are matriculated in that program for a degree;

(viii) The program must include supervised practicum, internship, or field training appropriate to the practice of psychology;

(ix) The curriculum shall encompass a minimum of three academic years of full-time graduate study for doctoral degree and a minimum of one academic year of full-time graduate study for master's degree;

(x) The program includes an acceptable residency as defined by the Rules of the Commission.

(3) Possess a current, full and unrestricted license to practice psychology in a home state which is a compact state;

(4) Have no history of adverse action that violate the Rules of the Commission;

(5) Have no criminal record history reported on an Identity History Summary that violates the Rules of the Commission;

(6) Possess a current, active E.Passport;

(7) Provide attestations in regard to areas of intended practice, conformity with standards of practice, competence in telepsychology technology; criminal background; and knowledge and adherence to legal requirements in the home and receiving states, and provide a release of information to allow for primary source verification in a manner specified by the Commission; and

(8) Meet other criteria as defined by the rules of the commission.

(c) The home state maintains authority over the license of any psychologist practicing into a receiving state under the authority to practice interjurisdictional telepsychology.

(d) A psychologist practicing into a receiving state under the authority to practice interjurisdictional telepsychology will be subject to the receiving state's scope of practice. A receiving state may, in accordance with that state's due process law, limit or revoke a psychologist's authority to practice interjurisdictional telepsychology in the receiving state and may take any other necessary actions under the receiving state's applicable law to protect the health and safety of the receiving state's citizens. If a receiving state takes action, the state shall promptly notify the home state and the Commission.

(e) If a psychologist's license in any home state, another compact state, or any authority to practice interjurisdictional telepsychology in any receiving state, is restricted, suspended or otherwise limited, the E.Passport shall be revoked and therefore the psychologist shall not be eligible to practice telepsychology in a compact state under authority to practice interjurisdictional telepsychology.

Section 7.

(a) Compact states shall also recognize the right of a psychologist, licensed in a compact state in conformance with section 5, to practice temporarily in other compact states (distant states) in which the psychologist is not licensed, as provided in the compact.

(b) To exercise the temporary authorization to practice under the terms and provisions of this compact, a psychologist licensed to practice in a compact state must:

(1) Hold a graduate degree in psychology from an institute of higher education that was, at the time the degree was awarded:

(i) Regionally accredited by an accrediting body recognized by the United States Department of Education to grant graduate degrees, or authorized by Provincial Statute or Royal Charter to grant doctoral degrees; or

(ii) A foreign college or university deemed to be equivalent to 1(a) above by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES) or by a recognized foreign credential evaluation service; and

(2) Hold a graduate degree in psychology that meets the following criteria:

(i) The program, wherever it may be administratively housed, must be clearly identified and labeled as a psychology program. Such a program must specify in pertinent institutional catalogs and brochures its intent to educate and train professional psychologists;

(ii) The psychology program must stand as a recognizable, coherent, organizational entity within the institution;

(iii) There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines;

(iv) The program must consist of an integrated, organized sequence of study;

(v) There must be an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities;

(vi) The designated director of the program must be a psychologist and a member of the core faculty;

(vii) The program must have an identifiable body of students who are matriculated in that program for a degree;

(viii) The program must include supervised practicum, internship, or field training appropriate to the practice of psychology;

(ix) The curriculum shall encompass a minimum of three academic years of full-time graduate study for doctoral degrees and a minimum of one academic year of full-time graduate study for master's degree;

(x) The program includes an acceptable residency as defined by the Rules of the Commission.

(3) Possess a current, full and unrestricted license to practice psychology in a home state which is a compact state;

(4) No history of adverse action that violate the Rules of the Commission;

(5) No criminal record history that violates the Rules of the Commission;

(6) Possess a current, active IPC;

(7) Provide attestations in regard to areas of intended practice and work experience and provide a release of information to allow for primary source verification in a manner specified by the Commission; and

(8) Meet other criteria as defined by the Rules of the Commission.

(c) A psychologist practicing into a distant state under the temporary authorization to practice shall practice within the scope of practice authorized by the distant state.

(d) A psychologist practicing into a distant state under the temporary authorization to practice will be subject to the distant state's authority and law. A distant state may, in accordance with that state's due process law, limit or revoke a psychologist's temporary authorization to practice in the distant state and may take any other necessary actions under the distant state's applicable law to protect the health and safety of the distant state's citizens. If a distant state takes action, the state shall promptly notify the home state and the commission.

(e) If a psychologist's license in any home state, another compact state, or any temporary authorization to practice in any distant state, is restricted, suspended or otherwise limited, the IPC shall be revoked and therefore the psychologist shall not be eligible to practice in a compact state under the temporary authorization to practice.

Section 8.

A psychologist may practice in a receiving state under authority to practice interjurisdictional telepsychology only in the performance of the scope of practice for psychology as assigned by an appropriate State Psychology Regulatory Authority, as defined in the Rules of the Commission, and under the following circumstances: (1) the psychologist initiates a client/patient contact in a home state via telecommunications technologies with a client/patient in a receiving state; and (2) other conditions regarding telepsychology as determined by rules promulgated by the commission.

Section 9.

(a) A home state shall have the power to impose adverse action against a psychologist's license issued by the home state. A distant state shall have the power to take adverse action on a psychologist’s temporary authorization to practice within that distant state.

(b) A receiving state may take adverse action on a psychologist's authority to practice interjurisdictional telepsychology within that receiving state. A home state may take adverse action against a psychologist based on an adverse action taken by a distant state regarding temporary in-person, face-to-face practice.

(c) If a home state takes adverse action against a psychologist’s license, that psychologist’s authority to practice interjurisdictional telepsychology is terminated and the E.Passport is revoked. Furthermore, that psychologist's temporary authorization to practice is terminated and the IPC is revoked.

(1) All home state disciplinary orders which impose adverse action shall be reported to the commission in accordance with the rules promulgated by the commission. A compact state shall report adverse actions in accordance with the rules of the commission.

(2) In the event discipline is reported on a psychologist, the psychologist will not be eligible for telepsychology or temporary in-person, face-to-face practice in accordance with the rules of the commission.

(3) Other actions may be imposed as determined by the rules promulgated by the commission.

(d) A home state’s psychology regulatory authority shall investigate and take appropriate action with respect to reported inappropriate conduct engaged in by a licensee which

occurred in a receiving state as it would if such conduct had occurred by a licensee within the home state. In such cases, the home state's law shall control in determining any adverse action against a psychologist's license.

(e) A distant state's psychology regulatory authority shall investigate and take appropriate action with respect to reported inappropriate conduct engaged in by a psychologist practicing under temporary authorization to practice which occurred in that distant state as it would if such conduct had occurred by a licensee within the home state. In such cases, distant state's law shall control in determining any adverse action against a psychologist's temporary authorization to practice.

(f) Nothing in this compact shall override a compact state's decision that a psychologist's participation in an alternative program may be used in lieu of adverse action and that such participation shall remain non-public if required by the compact state's law. Compact states must require psychologists who enter any alternative programs to not provide telepsychology services under the authority to practice interjurisdictional telepsychology or provide temporary psychological services under the temporary authorization to practice in any other compact state during the term of the alternative program.

(g) No other judicial or administrative remedies shall be available to a psychologist in the event a compact state imposes an adverse action pursuant to subsection (c).

Section 10.

(a) In addition to any other powers granted under state law, a compact state's psychology regulatory authority shall have the authority under this compact to:

(1) Issue subpoenas, for both hearings and investigations, which require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a compact state's psychology regulatory authority for the attendance and testimony of witnesses, or the production of evidence from another compact state shall be enforced in the latter state by any court of competent jurisdiction, according to that court's practice and procedure in considering subpoenas issued in its own proceedings. The issuing state psychology regulatory authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state where the witnesses or evidence are located; and

(2) Issue cease and desist or injunctive relief orders to revoke a psychologist's authority to practice interjurisdictional telepsychology or temporary authorization to practice.

(3) During the course of any investigation, a psychologist may not change his or her home state licensure. A home state psychology regulatory authority is authorized to complete any pending investigations of a psychologist and to take any actions appropriate under its law. The home state psychology regulatory authority shall promptly report the conclusions of such investigations to the commission. Once an investigation has been completed, and pending the outcome of said investigation, the psychologist may change his or her home state licensure. The commission shall promptly notify the new home state of any such decisions as provided in the rules of the commission. All information provided to the commission or distributed by compact states pursuant to the psychologist shall be confidential, filed under seal and used for investigatory or disciplinary matters. The commission may create additional rules for mandated or discretionary sharing of information by compact states.

Section 11.

(a) The commission shall provide for the development and maintenance of a coordinated licensure information system and reporting system containing licensure and disciplinary action information on all psychologists individuals to whom this compact is applicable in all compact states as defined by the rules of the commission.

(b) Notwithstanding any other provision of state law to the contrary, a compact state shall submit a uniform data set to the coordinated database on all licensees as required by the rules of the commission, including:

(1) Identifying information;

(2) Licensure data;

(3) Significant investigatory information;

(4) Adverse actions against a psychologist’s license;

(5) An indicator that a psychologist's authority to practice interjurisdictional telepsychology or temporary authorization to practice is revoked;

(6) Non-confidential information related to alternative program participation information;

(7) Any denial of application for licensure, and the reasons for such denial; and

(8) Other information which may facilitate the administration of this compact, as determined by the rules of the commission.

(c) The coordinated database administrator shall promptly notify all compact states of any adverse action taken against, or significant investigative information on, any licensee in a compact state.

(d) Compact states reporting information to the coordinated database may designate information that may not be shared with the public without the express permission of the compact state reporting the information.

(e) Any information submitted to the coordinated database that is subsequently required to be expunged by the law of the compact state reporting the information shall be removed from the coordinated database.

Section 12.

(a) The compact states hereby create and establish a joint public agency known as the Psychology Interjurisdictional Compact Commission.

(1) The commission is a body politic and an instrumentality of the compact states.

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

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

(b) Membership, Voting, and Meetings

(1) The commission shall consist of one voting representative appointed by each compact state who shall serve as that state's commissioner. The state psychology regulatory authority shall appoint its delegate. This delegate shall be empowered to act on behalf of the compact state. This delegate shall be limited to: (i) executive director, executive secretary or similar executive; (ii) current member of the state psychology regulatory authority of a compact state; or

(iii) designee empowered with the appropriate delegate authority to act on behalf of the compact state.

(2) Any commissioner may be removed or suspended from office as provided by the law of the state from which the commissioner is appointed. Any vacancy occurring in the commission shall be filled in accordance with the laws of the compact state in which the vacancy exists.

(3) Each commissioner shall be entitled to 1 vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission. A commissioner shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for commissioners' participation in meetings by telephone or other means of communication.

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

(5) All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in section 13.

(6) The commission may convene in a closed, non-public meeting if the commission must discuss:

(i) Non-compliance of a compact state with its obligations under the compact;

(ii) The employment, compensation, discipline or other personnel matters, practices or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;

(iii) Current, threatened, or reasonably anticipated litigation against the commission;

(iv) Negotiation of contracts for the purchase or sale of goods, services or real estate;

(v) Accusation against any person of a crime or formally censuring any person;

(vi) Disclosure of trade secrets or commercial or financial information which is privileged or confidential;

(vii) Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(viii) Disclosure of investigatory records compiled for law enforcement purposes;

(ix) Disclosure of information related to any investigatory reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility for investigation or determination of compliance issues pursuant to the compact; or

(x) Matters specifically exempted from disclosure by federal and state statute.

(7) If a meeting, or portion of a meeting, is closed pursuant to this provision, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The commission shall keep minutes which fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, of any person participating in the meeting, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release only by a majority vote of the commission or order of a court of competent jurisdiction.

(c) The commission shall, by a majority vote of the commissioners, prescribe bylaws and rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of the compact, including but not limited to:

(1) Establishing the fiscal year of the commission;

(2) Providing reasonable standards and procedures (i) for the establishment and meetings of other committees; and (ii) governing any general or specific delegation of any authority or function of the commission;

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

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

(5) Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission. Notwithstanding any civil service or other similar law of any compact state, the bylaws shall exclusively govern the personnel policies and programs of the commission;

(6) Promulgating a code of ethics to address permissible and prohibited activities of commission members and employees;

(7) Providing a mechanism for concluding the operations of the Commission and the equitable disposition of any surplus funds that may exist after the termination of the compact after the payment or reserving of all of its debts and obligations;

(8) The commission shall publish its bylaws in a convenient form and file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the compact states;

(9) The commission shall maintain its financial records in accordance with the bylaws; and

(10) The commission shall meet and take such actions as are consistent with the provisions of this compact and the bylaws.

(d) The commission shall have the following powers:

(1) The authority to promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rule shall have the force and effect of law and shall be binding in all compact states;

(2) To bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any state psychology regulatory authority or other regulatory body responsible for psychology licensure to sue or be sued under applicable law shall not be affected;

(3) To purchase and maintain insurance and bonds;

(4) To borrow, accept or contract for services of personnel, including, but not limited to, employees of a compact state;

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

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

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

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

(9) To establish a budget and make expenditures;

(10) To borrow money;

(11) To appoint committees, including advisory committees comprised of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this compact and the bylaws;

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

(13) To adopt and use an official seal; and

(14) To perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of psychology licensure, temporary in-person, face-to-face practice and telepsychology practice.

(e) The Executive Board

The elected officers shall serve as the Executive board, which shall have the power to act on behalf of the commission according to the terms of this compact.

(1) The executive board shall be comprised of 6 members: 5 voting members who are elected from the current membership of the commission by the commission; and 1 ex-officio, non-voting member from the recognized membership organization composed of state and provincial psychology regulatory authorities.

(2) The ex-officio member must have served as staff or member on a state psychology regulatory authority and will be selected by its respective organization.

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

(4) The executive board shall meet at least annually.

(5) The executive board shall have the following duties and responsibilities:

(i) Recommend to the entire commission changes to the rules or bylaws, changes to this compact legislation, fees paid by compact states such as annual dues, and any other applicable fees;

(ii) Ensure compact administration services are appropriately provided, contractual or otherwise;

(iii) Prepare and recommend the budget;

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

(v) Monitor compact compliance of member states and provide compliance reports to the commission;

(vi) Establish additional committees as necessary; and

(vii) Other duties as provided in rules or bylaws.

(f) Financing of the Commission

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

(2) The commission may accept any and all appropriate revenue sources, donations and grants of money, equipment, supplies, materials and services.

(3) The commission may levy on and collect an annual assessment from each compact state or impose fees on other parties to cover the cost of the operations and activities of the commission and its staff which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual

assessment amount shall be allocated based upon a formula to be determined by the commission which shall promulgate a rule binding upon all compact states.

(4) The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the commission pledge the credit of any of the compact states, except by and with the authority of the compact state.

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

(g) Qualified Immunity, Defense, and Indemnification

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

(2) The commission shall defend any member, officer, executive director, employee or representative of the commission in any civil action seeking to impose liability arising out of any

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

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

Section 13.

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

(b) If a majority of the legislatures of the compact states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compact state.

(c) Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.

(d) Prior to promulgation and adoption of a final rule or rules by the commission, and at least 60 days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:

(1) On the website of the commission; and

(2) On the website of each compact states' psychology regulatory authority or the publication in which each state would otherwise publish proposed rules.

(e) The notice of proposed rulemaking shall include:

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

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

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

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

(f) Prior to adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions and arguments, which shall be made available to the public.

(g) The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

(1) At least 25 persons who submit comments independently of each other;

(2) A governmental subdivision or agency; or

(3) A duly appointed person in an association that has having at least 25 members.

(h) If a hearing is held on the proposed rule or amendment, the commission shall publish the place, time, and date of the scheduled public hearing.

(1) All persons wishing to be heard at the hearing shall notify the executive director of the commission or other designated member in writing of their desire to appear and testify at the hearing not less than 5 business days before the scheduled date of the hearing.

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

(3) No transcript of the hearing is required, unless a written request for a transcript is made, in which case the person requesting the transcript shall bear the cost of producing the transcript. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This subsection shall not preclude the commission from making a transcript or recording of the hearing if it so chooses.

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

(i) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

(j) The commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

(k) If no written notice of intent to attend the public hearing by interested parties is received, the commission may proceed with promulgation of the proposed rule without a public hearing.

(l) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

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

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

(3) Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or

(4) Protect public health and safety.

(m) The commission or an authorized committee of the commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the commission. The revision shall be subject to

challenge by any person for a period of 30 days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the chair of the commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

Section 14.

(a) Oversight

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

(2) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a compact state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the commission.

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

(b) Default, Technical Assistance, and Termination

(1) If the commission determines that a compact state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission

shall: (i) provide written notice to the defaulting state and other compact states of the nature of the default, the proposed means of remedying the default or any other action to be taken by the commission; and (ii) provide remedial training and specific technical assistance regarding the default.

(2) If a state in default fails to remedy the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the compact states, and all rights, privileges and benefits conferred by this compact shall be terminated on the effective date of termination. A remedy of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(3) Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be submitted by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the compact states.

(4) A compact state which has been terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of termination, including obligations which extend beyond the effective date of termination.

(5) The commission shall not bear any costs incurred by the state which is found to be in default or which has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting state.

(6) The defaulting state may appeal the action of the commission by petitioning the United States district court for the State of Georgia or the federal district where the compact has

its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

(c) Dispute Resolution

(1) Upon request by a compact state, the commission shall attempt to resolve disputes related to the compact which arise among compact states and between compact and non-compact states.

(2) The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes that arise before the commission.

(d) Enforcement

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

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

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

Section 15.

(a) The compact shall come into effect on the date on which the compact is enacted into law in the seventh compact state. The provisions which become effective at that time shall be limited to the powers granted to the commission relating to assembly and the promulgation of rules. Thereafter, the commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the compact.

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

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

(1) A compact state's withdrawal shall not take effect until 6 months after enactment of the repealing statute.

(2) Withdrawal shall not affect the continuing requirement of the withdrawing state's psychology regulatory authority to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

(d) Nothing contained in this compact shall be construed to invalidate or prevent any psychology licensure agreement or other cooperative arrangement between a compact state and a non-compact state which does not conflict with the provisions of this compact.

(e) This compact may be amended by the compact states. No amendment to this compact shall become effective and binding upon any compact state until it is enacted into the law of all compact states.

Section 16.

This compact shall be liberally construed so as to effectuate the purposes thereof. If this compact shall be held contrary to the constitution of any state member thereto, the compact shall remain in full force and effect as to the remaining compact states.

Section 17.

The compact administrator who represents the commonwealth, as provided in the compact, shall not be entitled to any additional compensation for executing his duties and responsibilities as compact administrator but shall be entitled to reimbursement for reasonable expenses actually incurred in connection with his duties and responsibilities as compact administrator in the same manner as for expenses incurred in connection with other duties and responsibilities of his office or employment.

Section 18.

The executive director of the board of registration of psychologists, or the board executive director's designee, shall be the administrator of the psychology interjurisdictional compact for the commonwealth.

Section 19.

The board of registration of psychologists may promulgate regulations as necessary to implement the provisions of this chapter.

Section 20.

The board of registration of psychologists may recover from a psychologist the costs of investigation and disposition of cases resulting in any adverse disciplinary action taken against a psychologist's authority to practice interjurisdictional telepsychology or temporary authorization to practice. Funds collected pursuant to this section shall be deposited in the Quality in Health Professions Trust Fund established pursuant to section 35X of chapter 10.

Section 21.

The board of registration of psychologists may take disciplinary action against a psychologist practicing in the commonwealth under the authority to practice interjurisdictional telepsychology or temporary authorization to practice under a license issued by a member state. The board's disciplinary action may be based on disciplinary action against the psychologist's license taken by that licensee's home state.

Section 22.

In reporting information to the coordinated licensure information system under section 11 of this chapter related to the Psychology Interjurisdictional Compact Act, the board of registration of psychologists may disclose personally identifiable information about the psychologist, including social security number.

Section 23.

This psychology interjurisdictional compact shall be subject to the applicable laws and regulations of the commonwealth, including chapters 13, 30A and 112 of the general laws.

SECTION 8. The General Laws are hereby amended by inserting after chapter 112B the following chapter:-

Chapter 112C. Nurse Licensure Compact

Section 1.

As used in this chapter, the following words shall have the following meanings:

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

"Alternative program", a non-disciplinary monitoring program approved by a licensing board.

"Compact" or "Nurse Licensure Compact", the legally binding agreement between party states as adopted by the National Council of State Boards of Nursing Nurse Licensure Compact in its final version dated May 4, 2015, and entered into by the commonwealth in accordance with this chapter.

"Coordinated licensure information system", an integrated process for collecting, storing and sharing information on nurse licensure and enforcement activities related to nurse licensure laws that is administered by a nonprofit organization composed of and controlled by licensing boards.

"Current significant investigative information", (i) investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction or (ii) investigative information that indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond.

"Encumbrance", a revocation or suspension of, or any limitation on, the full and unrestricted practice of nursing imposed by a licensing board.

"Home state", the party state which is the nurse's primary state of residence.

"Interstate commission", the Interstate Commission of Nurse Licensure Compact Administrators as established in section 6 of this chapter.

"Licensing board", a party state's regulatory body responsible for issuing nurse licenses.

"Multistate license", a license to practice as a registered nurse or a licensed practical or vocational nurse issued by a home state licensing board that authorizes the licensed nurse to practice in all party states under a multistate licensure privilege.

"Multistate licensure privilege", a legal authorization associated with a multistate license permitting the practice of nursing as either a registered nurse or as a licensed practical or vocational nurse in a remote state.

"Nurse", registered nurse or a licensed practical or vocational nurse, as those terms are defined by each party state's practice laws.

"Nurse Licensing Compact" or "NLC", an agreement among member states, established and governed by the National Council of State Boards of Nursing, allowing nurses licensed in one NLC member state to practice in other NLC member states without having to obtain additional licenses.

"Party state", the commonwealth and any other state that has adopted this compact.

"Remote state", a party state other than the home state.

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

"State", a state, territory or possession of the United States and the District of Columbia.

"State practice laws", a party state's laws, rules and regulations that govern the practice of nursing, define the scope of nursing practice, and establish the methods and grounds for imposing discipline. "State practice laws" do not include requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

Section 2.

(a) A multistate license to practice as a nurse issued by a home state to a resident in that state will be recognized by each party state as authorizing a nurse to practice as a registered nurse or as a licensed practical or vocational nurse, under a multistate licensure privilege, in each party state.

(b) A state must implement procedures for considering the criminal history records of applicants for initial multistate license or licensure by endorsement. Such procedures shall

include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records.

(c) Each party state shall require the following for an applicant to obtain or retain a multistate license in the home state:

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

(2) (i) Has graduated or is eligible to graduate from a licensing board-approved registered nurse or practical or vocational nurse pre-licensure education program; or (ii) has graduated from a foreign registered nurse or practical or vocational nurse pre-licensure education program that (A) has been approved by the authorized accrediting body in the applicable country and (B) has been verified by an independent credentials review agency to be comparable to a licensing board-approved pre-licensure education program;

(3) Has, if a graduate of a foreign pre-licensure education program not taught in English or if English is not the individual's native language, successfully passed an English proficiency examination that includes the components of reading, speaking, writing and listening;

(4) Has successfully passed an NCLEX-RN® or NCLEX-PN® Examination or recognized predecessor, as applicable;

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

(6) Has submitted, in connection with an application for initial licensure or licensure by endorsement, fingerprints or other biometric data for the purpose of obtaining criminal history

record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records;

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

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

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

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

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

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

(e) A nurse practicing in a party state must comply with the state practice laws of the state in which the client is located at the time service is provided. The practice of nursing is not limited to patient care, but shall include all nursing practice as defined by the state practice laws of the party state in which the client is located. The practice of nursing in a party state under a

multistate licensure privilege will subject a nurse to the jurisdiction of the licensing board, the courts and the laws of the party state in which the client is located at the time service is provided.

(f) Individuals not residing in a party state shall continue to be able to apply for a party state's single-state license as provided under the laws of each party state. However, the single-state license granted to these individuals will not be recognized as granting the privilege to practice nursing in any other party state. Nothing in this compact shall affect the requirements established by a party state for the issuance of a single-state license.

(g) Any nurse holding a home state multistate license, on the effective date of this compact, may retain and renew the multistate license issued by the nurse's then-current home state, provided that:

(1) A nurse, who changes primary state of residence after this compact's effective date, must meet all applicable requirements under section 2 to obtain a multistate license from a new home state.

(2) A nurse who fails to satisfy the multistate licensure requirements in section 2 due to a disqualifying event occurring after this compact's effective date shall be ineligible to retain or renew a multistate license, and the nurse's multistate license shall be revoked or deactivated in accordance with applicable rules adopted by the interstate commission.

Section 3.

(a) Upon application for a multistate license, the licensing board in the issuing party state shall ascertain, through the coordinated licensure information system, whether the applicant has ever held, or is the holder of, a license issued by any other state, whether there are any

encumbrances on any license or multistate licensure privilege held by the applicant, whether any adverse action has been taken against any license or multistate licensure privilege held by the applicant and whether the applicant is currently participating in an alternative program.

(b) A nurse may hold a multistate license, issued by the home state, in only 1 party state at a time.

(c) If a nurse changes primary state of residence by moving between two party states, the nurse must apply for licensure in the new home state, and the multistate license issued by the prior home state will be deactivated in accordance with applicable rules adopted by the interstate commission.

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

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

(d) If a nurse changes primary state of residence by moving from a party state to a non-party state, the multistate license issued by the prior home state will convert to a single-state license, valid only in the former home state.

Section 4.

(a) In addition to the other powers conferred by state law, a licensing board shall have the authority to:

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

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

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

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

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

(4) Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses, as well as, the production of evidence. Subpoenas issued by a licensing board in a party state for the attendance and testimony of witnesses or the production of evidence from another party state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel

expenses, mileage and other fees required by the service statutes of the state in which the witnesses or evidence are located.

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

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

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

(b) If adverse action is taken by the home state against a nurse's multistate license, the nurse's multistate licensure privilege to practice in all other party states shall be deactivated until all encumbrances have been removed from the multistate license. All home state disciplinary orders that impose adverse action against a nurse's multistate license shall include a statement that the nurse's multistate licensure privilege is deactivated in all party states during the pendency of the order.

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

Section 5.

(a) All party states shall participate in a coordinated licensure information system of all licensed registered nurses and licensed practical or vocational nurses. This system will include information on the licensure and disciplinary history of each nurse, as submitted by party states, to assist in the coordination of nurse licensure and enforcement efforts.

(b) The interstate commission, in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection and exchange of information under this compact.

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

(d) Current significant investigative information and participation in nonpublic or confidential alternative programs shall be transmitted through the coordinated licensure information system only to party state licensing boards.

(e) Notwithstanding any other provision of law, all party state licensing boards contributing information to the coordinated licensure information system may designate information that may not be shared with non-party states or disclosed to other entities or individuals without the express permission of the contributing state.

(f) Any personally identifiable information obtained from the coordinated licensure information system by a party state licensing board shall not be shared with non-party states or

disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.

(g) Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information shall also be expunged from the coordinated licensure information system.

(h) The compact administrator of each party state shall furnish a uniform data set to the compact administrator of each other party state, which shall include, at a minimum:

(1) Identifying information;

(2) Licensure data;

(3) Information related to alternative program participation; and

(4) Other information that may facilitate the administration of this compact, as determined by interstate commission rules.

(i) The compact administrator of a party state shall provide all investigative documents and information requested by another party state.

Section 6.

(a) The party states hereby create and establish a joint public entity known as the Interstate Commission of Nurse Licensure Compact Administrators.

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

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

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

(b) Membership, Voting and Meetings

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

(2) Each administrator shall be entitled to 1 vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the interstate commission. An administrator shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for an administrator's participation in meetings by telephone or other means of communication.

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

(4) All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in section 7.

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

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

(ii) The employment, compensation, discipline or other personnel matters, practices or procedures related to specific employees or other matters related to the interstate commission's internal personnel practices and procedures;

(iii) Current, threatened or reasonably anticipated litigation;

(iv) Negotiation of contracts for the purchase or sale of goods, services or real estate;

(v) Accusing any person of a crime or formally censuring any person;

(vi) Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

(vii) Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(viii) Disclosure of investigatory records compiled for law enforcement purposes;

(ix) Disclosure of information related to any reports prepared by or on behalf of the interstate commission for the purpose of investigation of compliance with this compact; or

(x) Matters specifically exempted from disclosure by federal or state statute.

(6) If a meeting, or portion of a meeting, is closed pursuant to this provision, the interstate commission's legal counsel or designee shall certify that the meeting may be closed

and shall reference each relevant exempting provision. The interstate 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 therefor, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the interstate commission or order of a court of competent jurisdiction.

(c) The interstate commission shall, by a majority vote of the administrators, prescribe bylaws or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of this compact, including but not limited to:

(1) Establishing the fiscal year of the interstate commission;

(2) Providing reasonable standards and procedures:

(i) For the establishment and meetings of other committees; and

(ii) Governing any general or specific delegation of any authority or function of the interstate commission;

(3) Providing reasonable procedures for calling and conducting meetings of the interstate commission, ensuring reasonable advance notice of all meetings and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and proprietary information, including trade secrets. The interstate commission may meet in closed session only after a majority of the administrators vote to close a meeting in whole or in part. As soon as practicable, the interstate

commission must make public a copy of the vote to close the meeting revealing the vote of each administrator, with no proxy votes allowed;

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

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

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

(d) The interstate commission shall publish its bylaws and rules, and any amendments thereto, in a convenient form on the website of the interstate commission.

(e) The interstate commission shall maintain its financial records in accordance with the bylaws.

(f) The interstate commission shall meet and take such actions as are consistent with the provisions of this compact and the bylaws.

(g) The interstate commission shall have the following powers:

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

(2) To bring and prosecute legal proceedings or actions in the name of the interstate commission, provided that the standing of any licensing board to sue or be sued under applicable law shall not be affected;

(3) To purchase and maintain insurance and bonds;

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

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

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

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

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

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

(10) To establish a budget and make expenditures;

(11) To borrow money;

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

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

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

(15) To perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of nurse licensure and practice.

(h) Financing of the interstate commission

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

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

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

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

(i) Qualified Immunity, Defense and Indemnification

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

(2) The interstate commission shall defend any administrator, officer, executive director, employee or representative of the interstate commission in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope

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

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

Section 7.

(a) The interstate commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment and shall have the same force and effect as provisions of this compact.

(b) Rules or amendments to the rules shall be adopted at a regular or special meeting of the interstate commission.

(c) Prior to promulgation and adoption of a final rule or rules by the interstate commission, and at least 60 days in advance of the meeting at which the rule will be considered and voted upon, the interstate commission shall file a notice of proposed rulemaking:

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

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

(d) The notice of proposed rulemaking shall include:

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

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

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

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

(e) Prior to adoption of a proposed rule, the interstate commission shall allow persons to submit written data, facts, opinions and arguments, which shall be made available to the public.

(f) The interstate commission shall grant an opportunity for a public hearing before it adopts a rule or amendment.

(g) The interstate commission shall publish the place, time and date of the scheduled public hearing.

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

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

(h) If no one appears at the public hearing, the interstate commission may proceed with promulgation of the proposed rule.

(i) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the interstate commission shall consider all written and oral comments received.

(j) The interstate commission shall, by majority vote of all administrators, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

(k) Upon determination that an emergency exists, the interstate commission may consider and adopt an emergency rule without prior notice, opportunity for comment or hearing, provided that the usual rulemaking procedures provided in this compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

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

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

(3) Meet a deadline for the promulgation of an administrative rule that is required by federal law or rule.

(l) The interstate commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency or grammatical errors. Public notice of any revisions shall be posted on the website of the interstate commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the interstate commission, prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the interstate commission.

Section 8.

(a) Oversight

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

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

(b) Default, Technical Assistance and Termination

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

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

(ii) Provide remedial training and specific technical assistance regarding the default.

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

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

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

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

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

(c) Dispute Resolution

(1) Upon request by a party state, the interstate commission shall attempt to resolve disputes related to the Compact that arise among party states and between party and non-party states.

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

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

(i) The party states may submit the issues in dispute to an arbitration panel, which will be comprised of individuals appointed by the compact administrator in each of the affected party states and an individual mutually agreed upon by the compact administrators of all the party states involved in the dispute.

(ii) The decision of a majority of the arbitrators shall be final and binding.

(d) Enforcement

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

(2) By majority vote, the interstate commission may initiate legal action in the United States district court for the District of Columbia or the federal district in which the interstate commission has its principal offices against a party state that is in default to enforce compliance with the provisions of this compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.

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

Section 9.

(a) This compact shall become effective and binding on the earlier of the date of legislative enactment of this compact into law by no less than 26 states or December 31, 2018. All party states to this compact, that also were parties to the prior Nurse Licensure Compact, superseded by this compact, shall be deemed to have withdrawn from said prior compact within 6 months after the effective date of this compact.

(b) Each party state to this compact shall continue to recognize a nurse's multistate licensure privilege to practice in that party state issued under the prior compact until such party state has withdrawn from the prior compact.

(c) Any party state may withdraw from this compact by enacting a statute repealing the same. A party state's withdrawal shall not take effect until 6 months after enactment of the repealing statute.

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

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

(f) This compact may be amended by the party states. No amendment to this compact shall become effective and binding upon the party states unless and until it is enacted into the laws of all party states.

(g) Representatives of non-party states to this compact shall be invited to participate in the activities of the interstate commission, on a nonvoting basis, prior to the adoption of this compact by all states.

Section 10.

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States, or if the applicability thereof to any government, agency, person or circumstance is held

invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held to be contrary to the constitution of any party state, this compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

Section 11.

The executive director of the board of registration in nursing, or the board executive director's designee, shall be the administrator of the Nurse Licensure Compact for the commonwealth.

Section 12.

The board of registration in nursing shall adopt regulations in the same manner as all other states legally joining in the compact and may adopt additional regulations as necessary to implement the provisions of this chapter.

Section 13.

The board of registration in nursing may recover from a nurse the costs of investigation and disposition of cases resulting in any adverse disciplinary action taken against that nurse's license or privilege to practice. Funds collected pursuant to this section shall be deposited in the Quality in Health Professions Trust Fund established pursuant to section 35X of chapter 10.

Section 14.

The board of registration in nursing may take disciplinary action against the practice privilege of a registered nurse or of a licensed practical or vocational nurse practicing in the

commonwealth under a license issued by party state. The board's disciplinary action may be based on disciplinary action against the nurse's license taken by the nurse's home state.

Section 15.

In reporting information to the coordinated licensure information system under section 5 of this chapter related to the Nurse Licensure Compact, the board of registration in nursing may disclose personally identifiable information about the nurse, including social security number.

Section 16.

Nothing in this chapter, nor the entrance of the commonwealth into the Nurse Licensure Compact shall be construed to supersede existing labor laws.

Section 17.

As part of the licensure and background check process for a multistate license and to determine the suitability of an applicant for multistate licensure, the board of registration in nursing, prior to issuing any multistate license, shall conduct a fingerprint-based check of the state and national criminal history databases, as authorized by 28 CFR 20.33 and Public Law 92-544.

Fingerprints shall be submitted to the identification section of the department of state police for a state criminal history check and forwarded to the Federal Bureau of Investigation for a national criminal history check, according to the policies and procedures established by the state identification section and by the department of criminal justice information services. The department of state police and Federal Bureau of Investigation are expressly authorized to search criminal justice databases including all latent fingerprint submissions. Fingerprint submissions

may be retained by the Federal Bureau of Investigation, the state identification section and the department of criminal justice information services for requests submitted by the board of registration in nursing as authorized under this section to ensure the continued suitability of these individuals for licensure. The department of criminal justice information services shall disseminate the results of the state and national criminal background checks to the executive director of the board of registration in nursing and authorized staff of the board. The department of criminal justice information services shall only disseminate information under this section that would otherwise be available to the board of registration in nursing as provided in this section.

All applicants shall pay a fee to be established by the secretary of administration and finance, in consultation with the secretary of public safety, to offset the costs of operating and administering a fingerprint-based criminal background check system. The secretary of administration and finance, in consultation with the secretary of public safety, may increase the fee accordingly if the Federal Bureau of Investigation increases its fingerprint background check service fee. The board may pay the fee on behalf of applicants or reimburse applicants for all or part of the fee on the grounds of financial hardship. Any fees collected from fingerprinting activity under this chapter shall be deposited into the Fingerprint-Based Background Check Trust Fund, established in section 2HHHH of chapter 29.

The board of registration in nursing may receive all criminal offender record information and the results of checks of state and national criminal history databases under said Public Law 92-544, but they shall not receive juvenile adjudications and delinquency matters or sealed records. When the board of registration in nursing obtains the results of checks of state and national criminal history databases, it shall treat the information according to sections 167 to

178, inclusive, of chapter 6 and the regulations thereunder regarding criminal offender record information.

Notwithstanding subsections 9 and 9½ of section 4 of chapter 151B, if the board of registration in nursing receives criminal record information from the state or national fingerprint-based criminal background checks that includes no disposition or is otherwise incomplete, the agency head may request that an applicant for licensure provide additional information regarding the results of the criminal background checks to assist the agency head in determining the applicant's suitability for licensure.

Section 18.

The compact administrator who represents the commonwealth, as provided in the compact, shall not be entitled to any additional compensation for executing his duties and responsibilities as compact administrator but shall be entitled to reimbursement for reasonable expenses actually incurred in connection with his duties and responsibilities as compact administrator in the same manner as for expenses incurred in connection with other duties and responsibilities of his office or employment.

SECTION 9. Notwithstanding any general or special law to the contrary, the secretary of administration and finance, following a public hearing, shall increase the fee for obtaining or renewing a license, certificate, registration, permit or authority issued by a board within the department of public health, excluding the board of registration in medicine, as necessary to implement the provisions of the chapter 112C of the General Laws. The amount of the increase in fees shall be deposited in the Quality in Health Professions Trust Fund established in section 35X of chapter 10.

SECTION 10. The implementation date of the commonwealth's entry into the Nurse Licensure Compact shall be on the earlier of (a) the date of notification of implementation by the board of registration in nursing to the Director of the Nurse Licensure Compact, or (b) 6 months from the effective date of this act. Prior to said implementation date, the board of registration in nursing may take such actions as are necessary to implement chapter 112C of the General Laws and effectuate entry into the Nurse Licensure Compact.