

As Passed by the Senate

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Am. S. B. No. 149

Senator Roegner

Cosponsors: Senators Huffman, Romanchuk, Cirino, DeMora, Gavarone, Hicks-Hudson, Lang, O'Brien, Patton, Reineke, Reynolds

A BILL

To enact sections 4761.20, 4761.21, and 4761.22 of 1
the Revised Code to enter into the Respiratory 2
Care Interstate Compact. 3

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4761.20, 4761.21, and 4761.22 of 4
the Revised Code be enacted to read as follows: 5

Sec. 4761.20. The "Respiratory Care Interstate Compact" is 6
hereby ratified, enacted into law, and entered into by the state 7
of Ohio as a party to the compact with any other state that has 8
legally joined the compact as follows: 9

RESPIRATORY CARE INTERSTATE COMPACT 10

SECTION 1. TITLE AND PURPOSE 11

A. The purpose of this Compact is to facilitate the 12
interstate Practice of Respiratory Therapy with the goal of 13
improving public access to Respiratory Therapy services by 14
providing Respiratory Therapists licensed in a Member State the 15
ability to practice in other Member States. The Compact 16

preserves the regulatory authority of states to protect public health and safety through the current system of State licensure. 17
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B. This Compact is designed to achieve the following objectives: 19
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1. Increase public access to Respiratory Therapy services by creating a responsible, streamlined pathway for Licensees to practice in Member States with the goal of improving outcomes for patients; 21
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2. Enhance States' ability to protect the public's health and safety; 25
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3. Promote the cooperation of Member States in regulating the Practice of Respiratory Therapy within those Member States; 27
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4. Ease administrative burdens on States by encouraging the cooperation of Member States in regulating multi-state Respiratory Therapy practice; 29
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5. Support relocating Active Military Members and their spouses; and 32
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6. Promote mobility and address workforce shortages. 34

SECTION 2. DEFINITIONS 35

As used in this Compact, unless the context requires otherwise, the following definitions shall apply: 36
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A. "Active Military Member" means any person with a full-time duty status in the armed forces of the United States, including members of the National Guard and Reserve. 38
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B. "Adverse Action" means any administrative, civil, equitable, or criminal action permitted by a State's laws which is imposed by any State authority with regulatory authority over 41
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Respiratory Therapists, such as license denial, censure, 44
revocation, suspension, probation, monitoring of the Licensee, 45
or restriction on the Licensee's practice, not including 46
participation in an Alternative Program. 47

C. "Alternative Program" means a non-disciplinary 48
monitoring or practice remediation process applicable to a 49
Respiratory Therapist approved by any State authority with 50
regulatory authority over Respiratory Therapists. This includes, 51
but is not limited to, programs to which Licensees with 52
substance abuse or addiction issues are referred in lieu of 53
Adverse Action. 54

D. "Charter Member States" means those Member States who 55
were the first seven states to enact the Compact into the laws 56
of their State. 57

E. "Commission" or "Respiratory Care Interstate Compact 58
Commission" means the government instrumentality and body 59
politic whose membership consists of all Member States that have 60
enacted the Compact. 61

F. "Commissioner" means the individual appointed by a 62
Member State to serve as the member of the Commission for that 63
Member State. 64

G. "Compact" means the Respiratory Care Interstate 65
Compact. 66

H. "Compact Privilege" means the authorization granted by 67
a Remote State to allow a Licensee from another Member State to 68
practice as a Respiratory Therapist in the Remote State under 69
the Remote State's laws and Rules. The Practice of Respiratory 70
Therapy occurs in the Member State where the patient is located 71
at the time of the patient encounter. 72

<u>I. "Criminal Background Check" means the submission by the</u>	73
<u>Member State of fingerprints or other biometric-based</u>	74
<u>information on license applicants at the time of initial</u>	75
<u>licensing for the purpose of obtaining that applicant's criminal</u>	76
<u>history record information, as defined in 28 C.F.R. § 20.3(d) or</u>	77
<u>successor provision, from the Federal Bureau of Investigation</u>	78
<u>and the State's criminal history record repository, as defined</u>	79
<u>in 28 C.F.R. § 20.3(f) or successor provision.</u>	80
<u>J. "Data System" means the Commission's repository of</u>	81
<u>information about Licensees as further set forth in Section 8.</u>	82
<u>K. "Domicile" means the jurisdiction which is the</u>	83
<u>Licensee's principal home for legal purposes.</u>	84
<u>L. "Encumbered License" means a license that a State's</u>	85
<u>Respiratory Therapy Licensing Authority has limited in any way.</u>	86
<u>M. "Executive Committee" means a group of directors</u>	87
<u>elected or appointed to act on behalf of, and within the powers</u>	88
<u>granted to them by the Commission.</u>	89
<u>N. "Home State" except as set forth in Section 5, means</u>	90
<u>the Member State that is the Licensee's primary Domicile.</u>	91
<u>O. "Home State License" means an active license to</u>	92
<u>practice Respiratory Therapy in a Home State that is not an</u>	93
<u>Encumbered License.</u>	94
<u>P. "Jurisprudence Requirement" means an assessment of an</u>	95
<u>individual's knowledge of the State laws and regulations</u>	96
<u>governing the Practice of Respiratory Therapy in such State.</u>	97
<u>Q. "Licensee" means an individual who currently holds an</u>	98
<u>authorization from the State to practice as a Respiratory</u>	99
<u>Therapist.</u>	100

R. "Member State" means a State that has enacted the Compact and been admitted to the Commission in accordance with the provisions herein and Commission Rules. 101
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S. "Model Compact" means the model for the Respiratory Care Interstate Compact on file with The Council of State Governments or other entity as designated by the Commission. 104
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T. "Remote State" means a Member State where a Licensee is exercising or seeking to exercise the Compact Privilege. 107
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U. "Respiratory Therapist" or "Respiratory Care Practitioner" means an individual who holds a credential issued by the National Board for Respiratory Care (or its successor) and holds a license in a State to practice Respiratory Therapy. For purposes of this Compact, any other title or status adopted by a State to replace the term "Respiratory Therapist" or "Respiratory Care Practitioner" shall be deemed synonymous with "Respiratory Therapist" and shall confer the same rights and responsibilities to the Licensee under the provisions of this Compact at the time of its enactment. 109
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V. "Respiratory Therapy," "Respiratory Therapy Practice," "Respiratory Care," "the Practice of Respiratory Care," and "the Practice of Respiratory Therapy" means the care and services provided by or under the direction and supervision of a Respiratory Therapist or Respiratory Care Practitioner as defined by state law and regulations. 119
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W. "Respiratory Therapy Licensing Authority" means the agency, board, or other body of a State that is responsible for licensing and regulation of Respiratory Therapists. 125
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X. "Rule" means a regulation promulgated by an entity that has the force and effect of law. 128
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Y. "Scope of Practice" means the procedures, actions, and processes a Respiratory Therapist licensed in a State or practicing under a Compact Privilege in a State is permitted to undertake in that State and the circumstances under which the Respiratory Therapist is permitted to undertake those procedures, actions, and processes. Such procedures, actions, and processes, and the circumstances under which they may be undertaken may be established through means, including, but not limited to, statute, regulations, case law, and other processes available to the State Respiratory Therapy Licensing Authority or other government agency. 130-140

Z. "Significant Investigative Information" means information, records, and documents received or generated by a State Respiratory Therapy Licensing Authority pursuant to an investigation for which a determination has been made that there is probable cause to believe that the Licensee has violated a statute or regulation that is considered more than a minor infraction for which the State Respiratory Therapy Licensing Authority could pursue Adverse Action against the Licensee. 141-148

AA. "State" means any state, commonwealth, district, or territory of the United States. 149-150

SECTION 3. STATE PARTICIPATION IN THIS COMPACT 151

A. In order to participate in this Compact and thereafter continue as a Member State, a Member State shall: 152-153

1. Enact a Compact that is not materially different from the Model Compact; 154-155

2. License Respiratory Therapists; 156

3. Participate in the Commission's Data System; 157

<u>4. Have a mechanism in place for receiving and</u>	158
<u>investigating complaints against Licensees and Compact Privilege</u>	159
<u>holders;</u>	160
<u>5. Notify the Commission, in compliance with the terms of</u>	161
<u>this Compact and Commission Rules, of any Adverse Action against</u>	162
<u>a Licensee, a Compact Privilege holder, or a license applicant;</u>	163
<u>6. Notify the Commission, in compliance with the terms of</u>	164
<u>this Compact and Commission Rules, of the existence of</u>	165
<u>Significant Investigative Information;</u>	166
<u>7. Comply with the Rules of the Commission;</u>	167
<u>8. Grant the Compact Privilege to a holder of an active</u>	168
<u>Home State License and otherwise meet the applicable</u>	169
<u>requirements of Section 4 in a Member State; and</u>	170
<u>9. Complete a Criminal Background Check for each new</u>	171
<u>Licensee at the time of initial licensure.</u>	172
<u>a. Where expressly authorized or permitted by federal law,</u>	173
<u>whether such federal law is in effect prior to, at, or after the</u>	174
<u>time of a Member State's enactment of this Compact, a Member</u>	175
<u>State's enactment of this Compact shall hereby authorize the</u>	176
<u>Member State's Respiratory Therapy Licensing Authority to</u>	177
<u>perform Criminal Background Checks as defined herein. The</u>	178
<u>absence of such a federal law as described in this subsection</u>	179
<u>shall not prevent or preclude such authorization where it may be</u>	180
<u>derived or granted through means other than the enactment of</u>	181
<u>this Compact.</u>	182
<u>B. Nothing in this Compact prohibits a Member State from</u>	183
<u>charging a fee for granting and renewing the Compact Privilege.</u>	184
<u>SECTION 4. COMPACT PRIVILEGE</u>	185

<u>A. To exercise the Compact Privilege under the terms and</u>	186
<u>provisions of the Compact, the Licensee shall:</u>	187
<u>1. Hold and maintain an active Home State License as a</u>	188
<u>Respiratory Therapist;</u>	189
<u>2. Hold and maintain an active credential from the</u>	190
<u>National Board for Respiratory Care (or its successor) that</u>	191
<u>would qualify them for licensure in the Remote State in which</u>	192
<u>they are seeking the privilege;</u>	193
<u>3. Have not had any Adverse Action against a license</u>	194
<u>within the previous two (2) years;</u>	195
<u>4. Notify the Commission that the Licensee is seeking the</u>	196
<u>Compact Privilege within a Remote State(s);</u>	197
<u>5. Pay any applicable fees, including any State and</u>	198
<u>Commission fees and renewal fees, for the Compact Privilege;</u>	199
<u>6. Meet any Jurisprudence Requirements established by the</u>	200
<u>Remote State in which the Licensee is seeking a Compact</u>	201
<u>Privilege;</u>	202
<u>7. Report to the Commission Adverse Action taken by any</u>	203
<u>non-Member State within thirty (30) days from the date the</u>	204
<u>Adverse Action is taken;</u>	205
<u>8. Report to the Commission, when applying for a Compact</u>	206
<u>Privilege, the address of the Licensee's Domicile and thereafter</u>	207
<u>promptly report to the Commission any change in the address of</u>	208
<u>the Licensee's Domicile within thirty (30) days of the effective</u>	209
<u>date of the change in address; and</u>	210
<u>9. Consent to accept service of process by mail at the</u>	211
<u>Licensee's Domicile on record with the Commission with respect</u>	212
<u>to any action brought against the Licensee by the Commission or</u>	213

a Member State, and consent to accept service of a subpoena by 214
mail at the Licensee's Domicile on record with the Commission 215
with respect to any action brought or investigation conducted by 216
the Commission or a Member State. 217

B. The Compact Privilege is valid until the expiration 218
date or revocation of the Home State License unless terminated 219
pursuant to Adverse Action. The Licensee must comply with all of 220
the requirements of Subsection A, above, to maintain the Compact 221
Privilege in a Remote State. If those requirements are met, no 222
Adverse Actions are taken, and the Licensee has paid any 223
applicable Compact Privilege renewal fees, then the Licensee 224
will maintain the Licensee's Compact Privilege. 225

C. A Licensee providing Respiratory Therapy in a Remote 226
State under the Compact Privilege shall function within the 227
Scope of Practice authorized by the Remote State for the type of 228
Respiratory Therapist license the Licensee holds. Such 229
procedures, actions, processes, and the circumstances under 230
which they may be undertaken may be established through means, 231
including, but not limited to, statute, regulations, case law, 232
and other processes available to the State Respiratory Therapy 233
Licensing Authority or other government agency. 234

D. If a Licensee's Compact Privilege in a Remote State is 235
removed by the Remote State, the individual shall lose or be 236
ineligible for the Compact privilege in that Remote State until 237
the Compact Privilege is no longer limited or restricted by that 238
State. 239

E. If a Home State License is encumbered, the Licensee 240
shall lose the Compact Privilege in all Remote States until the 241
following occur: 242

<u>1. The Home State License is no longer encumbered; and</u>	243
<u>2. Two (2) years have elapsed from the date on which the license is no longer encumbered due to the Adverse Action.</u>	244 245
<u>F. Once a Licensee with a restricted or limited license meets the requirements of Subsection E.1 and 2, the Licensee must also meet the requirements of Subsection A to obtain a Compact Privilege in a Remote State.</u>	246 247 248 249
<u>SECTION 5. ACTIVE MILITARY MEMBER OR THEIR SPOUSE</u>	250
<u>A. An Active Military Member, or their spouse, shall designate a Home State where the individual has a current license in good standing. The individual may retain the Home State designation during the period the service member is on active duty.</u>	251 252 253 254 255
<u>B. An Active Military Member and their spouse shall not be required to pay to the Commission for a Compact Privilege any fee that may otherwise be charged by the Commission. If a Remote State chooses to charge a fee for a Compact Privilege, it may choose to charge a reduced fee or no fee to an Active Military Member and their spouse for a Compact Privilege.</u>	256 257 258 259 260 261
<u>SECTION 6. ADVERSE ACTIONS</u>	262
<u>A. A Member State in which a Licensee is licensed shall have authority to impose Adverse Action against the license issued by that Member State.</u>	263 264 265
<u>B. A Member State may take Adverse Action based on Significant Investigative Information of a Remote State or the Home State, so long as the Member State follows its own procedures for imposing Adverse Action.</u>	266 267 268 269
<u>C. Nothing in this Compact shall override a Member State's</u>	270

<u>decision that participation in an Alternative Program may be</u>	271
<u>used in lieu of Adverse Action and that such participation shall</u>	272
<u>remain non-public if required by the Member State's laws.</u>	273
<u>D. A Remote State shall have the authority to:</u>	274
<u>1. Take Adverse Actions as set forth herein against a</u>	275
<u>Licensee's Compact Privilege in that State;</u>	276
<u>2. Issue subpoenas for both hearings and investigations</u>	277
<u>that require the attendance and testimony of witnesses, and the</u>	278
<u>production of evidence.</u>	279
<u>a. Subpoenas may be issued by a Respiratory Therapy</u>	280
<u>Licensing Authority in a Member State for the attendance and</u>	281
<u>testimony of witnesses and the production of evidence.</u>	282
<u>b. Subpoenas issued by a Respiratory Therapy Licensing</u>	283
<u>Authority in a Member State for the attendance and testimony of</u>	284
<u>witnesses shall be enforced in the latter State by any court of</u>	285
<u>competent jurisdiction in the latter State, according to the</u>	286
<u>practice and procedure of that court applicable to subpoenas</u>	287
<u>issued in proceedings pending before it.</u>	288
<u>c. Subpoenas issued by a Respiratory Therapy Licensing</u>	289
<u>Authority in a Member State for production of evidence from</u>	290
<u>another Member State shall be enforced in the latter State,</u>	291
<u>according to the practice and procedure of that court applicable</u>	292
<u>to subpoenas issued in the proceedings pending before it.</u>	293
<u>d. The issuing authority shall pay any witness fees,</u>	294
<u>travel expenses, mileage, and other fees required by the service</u>	295
<u>statutes of the State where the witnesses or evidence are</u>	296
<u>located;</u>	297
<u>3. Unless otherwise prohibited by State law, recover from</u>	298

the Licensee the costs of investigations and disposition of 299
cases resulting from any Adverse Action taken against that 300
Licensee; 301

4. Notwithstanding subsection D.2., a Member State may not 302
issue a subpoena to gather evidence of conduct in another Member 303
State that is lawful in such other Member State for the purpose 304
of taking Adverse Action against a Licensee's Compact Privilege 305
or application for a Compact Privilege in that Member State; and 306

5. Nothing in this Compact authorizes a Member State to 307
impose discipline against a Respiratory Therapist's Compact 308
Privilege in that Member State for the individual's otherwise 309
lawful practice in another State. 310

E. Joint Investigations 311

1. In addition to the authority granted to a Member State 312
by its respective Respiratory Therapy Practice act or other 313
applicable state law, a Member State may participate with other 314
Member States in joint investigations of Licensees, provided, 315
however, that a Member State receiving such a request has no 316
obligation to respond to any subpoena issued regarding an 317
investigation of conduct or practice that was lawful in a Member 318
State at the time it was undertaken. 319

2. Member States shall share any Significant Investigative 320
Information, litigation, or compliance materials in furtherance 321
of any joint or individual investigation initiated under the 322
Compact. In sharing such information between Member State 323
Respiratory Therapy Licensing Authorities, all information 324
obtained shall be kept confidential, except as otherwise 325
mutually agreed upon by the sharing and receiving Member 326
State(s). 327

F. Nothing in this Compact may permit a Member State to 328
take any Adverse Action against a Licensee or holder of a 329
Compact Privilege for conduct or practice that was legal in the 330
Member State at the time it was undertaken. 331

G. Nothing in this Compact may permit a Member State to 332
take disciplinary action against a Licensee or holder of a 333
Compact Privilege for conduct or practice that was legal in the 334
Member State at the time it was undertaken. 335

SECTION 7. ESTABLISHMENT OF THE RESPIRATORY CARE 336
INTERSTATE COMPACT COMMISSION 337

A. The Compact Member States hereby create and establish a 338
joint government agency whose membership consists of all Member 339
States that have enacted the Compact known as the Respiratory 340
Care Interstate Compact Commission. The Commission is an 341
instrumentality of the Compact Member States acting jointly and 342
not an instrumentality of any one State. The Commission shall 343
come into existence on or after the effective date of the 344
Compact, as set forth in Section 11. 345

B. Membership, Voting, and Meetings 346

1. Each Member State shall have and be limited to one (1) 347
Commissioner selected by that Member State's Respiratory Therapy 348
Licensing Authority. 349

2. The Commissioner shall be an administrator or their 350
designated staff member of the Member State's Respiratory 351
Therapy Licensing Authority. 352

3. The Commission shall by Rule or bylaw establish a term 353
of office for Commissioners and may by Rule or bylaw establish 354
term limits. 355

<u>4. The Commission may recommend to a Member State the</u>	356
<u>removal or suspension any Commissioner from office.</u>	357
<u>5. A Member State's Respiratory Therapy Licensing</u>	358
<u>Authority shall fill any vacancy of its Commissioner occurring</u>	359
<u>on the Commission within sixty (60) days of the vacancy.</u>	360
<u>6. Each Commissioner shall be entitled to one vote on all</u>	361
<u>matters before the Commission requiring a vote by Commissioners.</u>	362
<u>7. A Commissioner shall vote in person or by such other</u>	363
<u>means as provided in the bylaws. The bylaws may provide for</u>	364
<u>Commissioners to meet by telecommunication, video conference, or</u>	365
<u>other means of communication.</u>	366
<u>8. The Commission shall meet at least once during each</u>	367
<u>calendar year. Additional meetings may be held as set forth in</u>	368
<u>the bylaws.</u>	369
<u>C. The Commission shall have the following powers:</u>	370
<u>1. Establish and amend the fiscal year of the Commission;</u>	371
<u>2. Establish and amend bylaws and policies, including but</u>	372
<u>not limited to, a code of conduct and conflict of interest;</u>	373
<u>3. Establish and amend Rules, which shall be binding in</u>	374
<u>all Member States;</u>	375
<u>4. Maintain its financial records in accordance with the</u>	376
<u>bylaws;</u>	377
<u>5. Meet and take such actions as are consistent with the</u>	378
<u>provisions of this Compact, the Commission's Rules, and the</u>	379
<u>bylaws;</u>	380
<u>6. Initiate and conduct legal proceedings or actions in</u>	381
<u>the name of the Commission, provided that the standing of any</u>	382

<u>Respiratory Therapy Licensing Authority to sue or be sued under</u>	383
<u>applicable law shall not be affected;</u>	384
<u>7. Maintain and certify records and information provided</u>	385
<u>to a Member State as the authenticated business records of the</u>	386
<u>Commission, and designate an agent to do so on the Commission's</u>	387
<u>behalf;</u>	388
<u>8. Purchase and maintain insurance and bonds;</u>	389
<u>9. Accept or contract for services of personnel,</u>	390
<u>including, but not limited to, employees of a Member State;</u>	391
<u>10. Conduct an annual financial review;</u>	392
<u>11. Hire employees, elect or appoint officers, fix</u>	393
<u>compensation, define duties, grant such individuals appropriate</u>	394
<u>authority to carry out the purposes of the Compact, and</u>	395
<u>establish the Commission's personnel policies and programs</u>	396
<u>relating to conflicts of interest, qualifications of personnel,</u>	397
<u>and other related personnel matters;</u>	398
<u>12. Assess and collect fees;</u>	399
<u>13. Accept any and all appropriate gifts, donations,</u>	400
<u>grants of money, other sources of revenue, equipment, supplies,</u>	401
<u>materials, and services, and receive, utilize, and dispose of</u>	402
<u>the same, provided that at all times:</u>	403
<u>a. The Commission shall avoid any appearance of</u>	404
<u>impropriety; and</u>	405
<u>b. The Commission shall avoid any appearance of conflict</u>	406
<u>of interest;</u>	407
<u>14. Lease, purchase, retain, own, hold, improve, or use</u>	408
<u>any property, real, personal, or mixed, or any undivided</u>	409

<u>interest therein;</u>	410
<u>15. Sell, convey, mortgage, pledge, lease, exchange,</u>	411
<u>abandon, or otherwise dispose of any property real, personal, or</u>	412
<u>mixed;</u>	413
<u>16. Establish a budget and make expenditures;</u>	414
<u>17. Borrow money in a fiscally responsible manner;</u>	415
<u>18. Appoint committees, including standing committees,</u>	416
<u>composed of Commissioners State regulators, State legislators or</u>	417
<u>their representatives, and consumer representatives, and such</u>	418
<u>other interested persons as may be designated in this Compact</u>	419
<u>and the bylaws;</u>	420
<u>19. Provide and receive information from, and cooperate</u>	421
<u>with, law enforcement agencies;</u>	422
<u>20. Establish and elect an Executive Committee, including</u>	423
<u>a chair, vice-chair, secretary, treasurer, and such other</u>	424
<u>offices as the Commission shall establish by Rule or bylaw;</u>	425
<u>21. Enter into contracts or arrangements for the</u>	426
<u>management of the affairs of the Commission;</u>	427
<u>22. Determine whether a State's adopted language is</u>	428
<u>materially different from the Model Compact language such that</u>	429
<u>the State would not qualify for participation in the Compact;</u>	430
<u>and</u>	431
<u>23. Perform such other functions as may be necessary or</u>	432
<u>appropriate to achieve the purposes of this Compact.</u>	433
<u>D. The Executive Committee</u>	434
<u>1. The Executive Committee shall have the power to act on</u>	435
<u>behalf of the Commission according to the terms of this Compact.</u>	436

<u>The powers, duties, and responsibilities of the Executive</u>	437
<u>Committee shall include:</u>	438
<u>a. Overseeing the day-to-day activities of the</u>	439
<u>administration of the Compact, including enforcement and</u>	440
<u>compliance with the provisions of the Compact, its Rules and</u>	441
<u>bylaws, and other such duties as deemed necessary;</u>	442
<u>b. Recommending to the Commission changes to the Rules or</u>	443
<u>bylaws, changes to this Compact legislation, fees charged to</u>	444
<u>Compact Member States, fees charged to Licensees, and other</u>	445
<u>fees;</u>	446
<u>c. Ensuring Compact administration services are</u>	447
<u>appropriately provided, including by contract;</u>	448
<u>d. Preparing and recommending the budget;</u>	449
<u>e. Maintaining financial records on behalf of the</u>	450
<u>Commission;</u>	451
<u>f. Monitoring Compact compliance of Member States and</u>	452
<u>providing compliance reports to the Commission;</u>	453
<u>g. Establishing additional committees as necessary;</u>	454
<u>h. Exercising the powers and duties of the Commission</u>	455
<u>during the interim between Commission meetings, except for</u>	456
<u>adopting or amending Rules, adopting or amending bylaws, and</u>	457
<u>exercising any other powers and duties expressly reserved to the</u>	458
<u>Commission by Rule or bylaw; and</u>	459
<u>i. Performing other duties as provided in the Rules or</u>	460
<u>bylaws of the Commission.</u>	461
<u>2. The Executive Committee shall be composed of up to nine</u>	462
<u>(9) members, as further set forth in the bylaws of the</u>	463

<u>Commission:</u>	464
<u>a. Seven (7) voting members who are elected by the</u>	465
<u>Commission from the current membership of the Commission; and</u>	466
<u>b. Two (2) ex-officio, non-voting members.</u>	467
<u>3. The Commission may remove any member of the Executive</u>	468
<u>Committee as provided in the Commission's bylaws.</u>	469
<u>4. The Executive Committee shall meet at least annually.</u>	470
<u>a. Executive Committee meetings shall be open to the</u>	471
<u>public, except that the Executive Committee may meet in a</u>	472
<u>closed, non-public meeting as provided in subsection F.4 below;</u>	473
<u>b. The Executive Committee shall give advance notice of</u>	474
<u>its meetings, posted on its website and as determined to provide</u>	475
<u>notice to persons with an interest in the business of the</u>	476
<u>Commission; and</u>	477
<u>c. The Executive Committee may hold a special meeting in</u>	478
<u>accordance with subsection F.2 below.</u>	479
<u>E. The Commission shall adopt and provide to the Member</u>	480
<u>States an annual report.</u>	481
<u>F. Meetings of the Commission</u>	482
<u>1. All meetings of the Commission that are not closed</u>	483
<u>pursuant to subsection 7.F.4 shall be open to the public. Notice</u>	484
<u>of public meetings shall be posted on the Commission's website</u>	485
<u>at least thirty (30) days prior to the public meeting.</u>	486
<u>2. Notwithstanding subsection 7.F.1, the Commission may</u>	487
<u>convene an emergency public meeting by providing at least</u>	488
<u>twenty-four (24) hours prior notice on the Commission's website,</u>	489
<u>and any other means as provided in the Commission's Rules, for</u>	490

any of the reasons it may dispense with notice of proposed 491
rulemaking under subsection 9.G. The Commission's legal counsel 492
shall certify that one of the reasons justifying an emergency 493
public meeting has been met. 494

3. Notice of all Commission meetings shall provide the 495
time, date, and location of the meeting, and if the meeting is 496
to be held or accessible via telecommunication, video 497
conference, or other electronic means, the notice shall include 498
the mechanism for access to the meeting. 499

4. The Commission or the Executive Committee may convene 500
in a closed, non-public meeting for the Commission or Executive 501
Committee to receive or solicit legal advice or to discuss: 502

a. Non-compliance of a Member State with its obligations 503
under the Compact; 504

b. The employment, compensation, discipline or other 505
matters, practices or procedures related to specific employees; 506

c. Current or threatened discipline of a Licensee or 507
Compact Privilege holder by the Commission or by a Member 508
State's Respiratory Therapy Licensing Authority; 509

d. Current, threatened, or reasonably anticipated 510
litigation; 511

e. Negotiation of contracts for the purchase, lease, or 512
sale of goods, services, or real estate; 513

f. Accusing any person of a crime or formally censuring 514
any person; 515

g. Trade secrets or commercial or financial information 516
that is privileged or confidential; 517

<u>h. Information of a personal nature where disclosure would</u>	518
<u>constitute a clearly unwarranted invasion of personal privacy;</u>	519
<u>i. Investigative records compiled for law enforcement</u>	520
<u>purposes;</u>	521
<u>j. Information related to any investigative reports</u>	522
<u>prepared by or on behalf of or for use of the Commission or</u>	523
<u>other committee charged with responsibility of investigation or</u>	524
<u>determination of compliance issues pursuant to the Compact;</u>	525
<u>k. Legal advice;</u>	526
<u>l. Matters specifically exempted from disclosure by</u>	527
<u>federal or Member State law; or</u>	528
<u>m. Other matters as promulgated by the Commission by Rule.</u>	529
<u>5. If a meeting, or portion of a meeting, is closed, the</u>	530
<u>presiding officer shall state that the meeting will be closed</u>	531
<u>and reference each relevant exempting provision, and such</u>	532
<u>reference shall be recorded in the minutes.</u>	533
<u>6. The Commission shall keep minutes in accordance with</u>	534
<u>Commission Rules and bylaws. All documents considered in</u>	535
<u>connection with an action shall be identified in such minutes.</u>	536
<u>All minutes and documents of a closed meeting shall remain under</u>	537
<u>seal, subject to release only by a majority vote of the</u>	538
<u>Commission or order of a court of competent jurisdiction.</u>	539
<u>G. Financing of the Commission</u>	540
<u>1. The Commission shall pay, or provide for the payment</u>	541
<u>of, the reasonable expenses of its establishment, organization,</u>	542
<u>and ongoing activities.</u>	543
<u>2. The Commission may accept any and all appropriate</u>	544

revenue sources as provided herein. 545

3. The Commission may levy on and collect an annual 546
assessment from each Member State and impose fees on Licensees 547
of Member States to whom it grants a Compact Privilege to cover 548
the cost of the operations and activities of the Commission and 549
its staff. The aggregate annual assessment amount for Member 550
States, if any, shall be allocated based upon a formula that the 551
Commission shall promulgate by Rule. 552

4. The Commission shall not incur obligations of any kind 553
prior to securing the funds or a loan adequate to meet the same; 554
nor shall the Commission pledge the credit of any of the Member 555
States, except by and with the authority of the Member State. 556

5. The Commission shall keep accurate accounts of all 557
receipts and disbursements. The receipts and disbursements of 558
the Commission shall be subject to the financial review and 559
accounting procedures established under its bylaws. However, all 560
receipts and disbursements of funds handled by the Commission 561
shall be subject to an annual financial review by a certified or 562
licensed public accountant, and the report of the financial 563
review shall be included in and become part of the annual report 564
of the Commission. 565

H. Qualified Immunity, Defense, and Indemnification 566

1. Nothing herein shall be construed as a limitation on 567
the liability of any Licensee for professional malpractice or 568
misconduct, which shall be governed solely by any other 569
applicable state laws. 570

2. The Member States, Commissioners, officers, executive 571
directors, employees, and agents of the Commission shall be 572
immune from suit and liability, both personally and in their 573

official capacity, for any claim for damage to or loss of 574
property or personal injury or other civil liability caused by 575
or arising out of any actual or alleged act, error, or omission 576
that occurred, or that the person against whom the claim is made 577
had a reasonable basis for believing occurred within the scope 578
of Commission employment, duties or responsibilities; provided 579
that nothing in this subsection shall be construed to protect 580
any such person from suit or liability for any damage, loss, 581
injury, or liability caused by the intentional or willful or 582
wanton misconduct of that person. The procurement of insurance 583
of any type by the Commission shall not in any way compromise or 584
limit the immunity granted hereunder. 585

3. The Commission shall defend any Commissioner, officer, 586
executive director, employee, and agent of the Commission in any 587
civil action seeking to impose liability arising out of any 588
actual or alleged act, error, or omission that occurred within 589
the scope of Commission employment, duties, or responsibilities, 590
or as determined by the Commission that the person against whom 591
the claim is made had a reasonable basis for believing occurred 592
within the scope of Commission employment, duties, or 593
responsibilities; provided that nothing herein shall be 594
construed to prohibit that person from retaining their own 595
counsel at their own expense; and provided further, that the 596
actual or alleged act, error, or omission did not result from 597
that person's intentional or willful or wanton misconduct. 598

4. The Commission shall indemnify and hold harmless any 599
Commissioner, member, officer, executive director, employee, and 600
agent of the Commission for the amount of any settlement or 601
judgment obtained against that person arising out of any actual 602
or alleged act, error, or omission that occurred within the 603
scope of Commission employment, duties, or responsibilities, or 604

that such person had a reasonable basis for believing occurred 605
within the scope of Commission employment, duties, or 606
responsibilities, provided that the actual or alleged act, 607
error, or omission did not result from the intentional or 608
willful or wanton misconduct of that person. 609

5. Nothing in this Compact shall be interpreted to waive 610
or otherwise abrogate a Member State's state action immunity or 611
state action affirmative defense with respect to antitrust 612
claims under the Sherman Act, Clayton Act, or any other State or 613
federal antitrust or anticompetitive law or regulation. 614

6. Nothing in this Compact shall be construed to be a 615
waiver of sovereign immunity by the Member States or by the 616
Commission. 617

SECTION 8. DATA SYSTEM 618

A. The Commission shall provide for the development, 619
maintenance, operation, and utilization of a coordinated 620
database and reporting system containing licensure, Adverse 621
Action, and the presence of Significant Investigative 622
Information. 623

B. Notwithstanding any other provision of State law to the 624
contrary, a Member State shall submit a uniform data set to the 625
Data System as required by the Rules of the Commission, 626
including but not limited to: 627

1. Identifying information; 628

2. Licensure data; 629

3. Adverse Actions against a Licensee, license applicant, 630
or Compact Privilege holder and information related thereto; 631

4. Non-confidential information related to Alternative 632

Program participation, the beginning and ending dates of such 633
participation, and other information related to such 634
participation not made confidential under Member State law; 635

5. Any denial of application for licensure, and the 636
reason(s) for such denial; 637

6. The presence of current Significant Investigative 638
Information; and 639

7. Other information that may facilitate the 640
administration of this Compact or the protection of the public, 641
as determined by the Rules of the Commission. 642

C. No Member State shall submit any information which 643
constitutes criminal history record information, as defined by 644
applicable federal law, to the Data System established 645
hereunder. 646

D. The records and information provided to a Member State 647
pursuant to this Compact or through the Data System, when 648
certified by the Commission or an agent thereof, shall 649
constitute the authenticated business records of the Commission, 650
and shall be entitled to any associated hearsay exception in any 651
relevant judicial, quasi-judicial or administrative proceedings 652
in a Member State. 653

E. Significant Investigative Information pertaining to a 654
Licensee in any Member State will only be available to other 655
Member States. 656

F. It is the responsibility of the Member States to report 657
any Adverse Action against a Licensee and to monitor the 658
database to determine whether Adverse Action has been taken 659
against a Licensee. Adverse Action information pertaining to a 660
Licensee in any Member State will be available to any other 661

Member State. 662

G. Member States contributing information to the Data 663
System may designate information that may not be shared with the 664
public without the express permission of the contributing State. 665

H. Any information submitted to the Data System that is 666
subsequently expunged pursuant to federal law or the laws of the 667
Member State contributing the information shall be removed from 668
the Data System. 669

SECTION 9. RULEMAKING 670

A. The Commission shall promulgate reasonable Rules in 671
order to effectively and efficiently implement and administer 672
the purposes and provisions of the Compact. A Rule shall be 673
invalid and have no force or effect only if a court of competent 674
jurisdiction holds that the Rule is invalid because the 675
Commission exercised its rulemaking authority in a manner that 676
is beyond the scope and purposes of the Compact, or the powers 677
granted hereunder, or based upon another applicable standard of 678
review. 679

B. For purposes of the Compact, the Rules of the 680
Commission shall have the force of law in each Member State. 681

C. The Commission shall exercise its rulemaking powers 682
pursuant to the criteria set forth in this section and the Rules 683
adopted thereunder. Rules shall become binding as of the date 684
specified in each Rule. 685

D. If a majority of the legislatures of the Member States 686
rejects a Rule or portion of a Rule, by enactment of a statute 687
or resolution in the same manner used to adopt the Compact 688
within four (4) years of the date of adoption of the Rule, then 689
such Rule shall have no further force and effect in any Member 690

<u>State.</u>	691
<u>E. Rules shall be adopted at a regular or special meeting of the Commission.</u>	692 693
<u>F. Prior to adoption of a proposed Rule, the Commission shall hold a public hearing and allow persons to provide oral and written comments, data, facts, opinions, and arguments.</u>	694 695 696
<u>G. Prior to adoption of a proposed Rule by the Commission, and at least thirty (30) days in advance of the meeting at which the Commission will hold a public hearing on the proposed Rule, the Commission shall provide a notice of proposed rulemaking:</u>	697 698 699 700
<u>1. On the website of the Commission or other publicly accessible platform;</u>	701 702
<u>2. To persons who have requested notice of the Commission's notices of proposed rulemaking, and</u>	703 704
<u>3. In such other way(s) as the Commission may by Rule specify.</u>	705 706
<u>H. The notice of proposed rulemaking shall include:</u>	707
<u>1. The time, date, and location of the public hearing at which the Commission will hear public comments on the proposed Rule and, if different, the time, date, and location of the meeting where the Commission will consider and vote on the proposed Rule;</u>	708 709 710 711 712
<u>2. If the hearing is held via telecommunication, video conference, or other electronic means, the Commission shall include the mechanism for access to the hearing in the notice of proposed rulemaking;</u>	713 714 715 716
<u>3. The text of the proposed Rule and the reason therefor;</u>	717

<u>4. A request for comments on the proposed Rule from any</u>	718
<u>interested person; and</u>	719
<u>5. The manner in which interested persons may submit</u>	720
<u>written comments.</u>	721
<u>I. All hearings will be recorded. A copy of the recording</u>	722
<u>and all written comments and documents received by the</u>	723
<u>Commission in response to the proposed Rule shall be available</u>	724
<u>to the public.</u>	725
<u>J. Nothing in this section shall be construed as requiring</u>	726
<u>a separate hearing on each Rule. Rules may be grouped for the</u>	727
<u>convenience of the Commission at hearings required by this</u>	728
<u>section.</u>	729
<u>K. The Commission shall, by majority vote of all</u>	730
<u>Commissioners, take final action on the proposed Rule based on</u>	731
<u>the rulemaking record and the full text of the Rule.</u>	732
<u>1. The Commission may adopt changes to the proposed Rule</u>	733
<u>provided the changes are consistent with the original purpose of</u>	734
<u>the proposed Rule.</u>	735
<u>2. The Commission shall provide an explanation of the</u>	736
<u>reasons for substantive changes made to the proposed Rule as</u>	737
<u>well as reasons for substantive changes not made that were</u>	738
<u>recommended by commenters.</u>	739
<u>3. The Commission shall determine a reasonable effective</u>	740
<u>date for the Rule. Except for an emergency as provided in</u>	741
<u>Section 9.L, the effective date of the Rule shall be no sooner</u>	742
<u>than thirty (30) days after issuing the notice that it adopted</u>	743
<u>or amended the Rule.</u>	744
<u>L. Upon determination that an emergency exists, the</u>	745

Commission may consider and adopt an emergency Rule with twenty- 746
four (24) hours' notice, and with opportunity to comment, 747
provided that the usual rulemaking procedures provided in the 748
Compact and in this section shall be retroactively applied to 749
the Rule as soon as reasonably possible, in no event later than 750
ninety (90) days after the effective date of the Rule. For the 751
purposes of this provision, an emergency Rule is one that must 752
be adopted immediately in order to: 753

1. Meet an imminent threat to public health, safety, or 754
welfare; 755

2. Prevent a loss of Commission or Member State funds; 756

3. Meet a deadline for the promulgation of a Rule that is 757
established by federal law or Rule; or 758

4. Protect public health and safety. 759

M. The Commission or an authorized committee of the 760
Commission may direct revisions to a previously adopted Rule for 761
purposes of correcting typographical errors, errors in format, 762
errors in consistency, or grammatical errors. Public notice of 763
any revisions shall be posted on the website of the Commission. 764
The revision shall be subject to challenge by any person for a 765
period of thirty (30) days after posting. The revision may be 766
challenged only on grounds that the revision results in a 767
material change to a Rule. A challenge shall be made in writing 768
and delivered to the Commission prior to the end of the notice 769
period. If no challenge is made, the revision will take effect 770
without further action. If the revision is challenged, the 771
revision may not take effect without the approval of the 772
Commission. 773

N. No Member State's rulemaking process or procedural 774

requirements shall apply to the Commission. 775

1. The Commission shall have no authority over any Member 776
State's rulemaking process or procedural requirements that do 777
not pertain to the Compact. 778

O. Nothing in this Compact, nor any Rule or regulation of 779
the Commission, shall be construed to limit, restrict, or in any 780
way reduce the ability of a Member State to enact and enforce 781
laws, regulations, or other Rules related to the Practice of 782
Respiratory Therapy in that State, where those laws, 783
regulations, or other Rules are not inconsistent with the 784
provisions of this Compact. 785

SECTION 10. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT 786

A. Oversight 787

1. The executive and judicial branches of State government 788
in each Member State shall enforce this Compact and take all 789
actions necessary and appropriate to implement the Compact. 790

2. Venue is proper and judicial proceedings by or against 791
the Commission shall be brought solely and exclusively in a 792
court of competent jurisdiction where the principal office of 793
the Commission is located. The Commission may waive venue and 794
jurisdictional defenses to the extent it adopts or consents to 795
participate in alternative dispute resolution proceedings. 796
Nothing herein shall affect or limit the selection or propriety 797
of venue in any action against a Licensee for professional 798
malpractice, misconduct or any such similar matter. 799

3. The Commission shall be entitled to receive service of 800
process in any proceeding regarding the enforcement or 801
interpretation of the Compact and shall have standing to 802
intervene in such a proceeding for all purposes. Failure to 803

provide the Commission service of process shall render a 804
judgment or order void as to the Commission, this Compact, or 805
promulgated Rules. 806

B. Default, Technical Assistance, and Termination 807

1. If the Commission determines that a Member State has 808
defaulted in the performance of its obligations or 809
responsibilities under this Compact or the promulgated Rules, 810
the Commission shall provide written notice to the defaulting 811
State. The notice of default shall describe the default, the 812
proposed means of curing the default, and any other action that 813
the Commission may take, and shall offer training and specific 814
technical assistance regarding the default. 815

2. The Commission shall provide a copy of the notice of 816
default to the other Member States. 817

C. If a State in default fails to cure the default, the 818
defaulting State may be terminated from the Compact upon an 819
affirmative vote of a majority of the Commissioners of the 820
Member States, and all rights, privileges and benefits conferred 821
on that State by this Compact may be terminated on the effective 822
date of termination. A cure of the default does not relieve the 823
offending State of obligations or liabilities incurred during 824
the period of default. 825

D. Termination of membership in the Compact shall be 826
imposed only after all other means of securing compliance have 827
been exhausted. Notice of intent to suspend or terminate shall 828
be given by the Commission to the governor, the majority and 829
minority leaders of the defaulting State's legislature, the 830
defaulting State's Respiratory Therapy Licensing Authority and 831
each of the Member States' Respiratory Therapy Licensing 832

<u>Authorities.</u>	833
<u>E. 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, if necessary.</u>	834 835 836 837
<u>F. Upon the termination of a State's membership from this Compact, that State shall immediately provide notice to all Licensees and Compact Privilege holders (of which the Commission has a record) within that State of such termination. The terminated State shall continue to recognize all licenses granted pursuant to this Compact for a minimum of one hundred eighty (180) days after the date of said notice of termination.</u>	838 839 840 841 842 843 844
<u>G. 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.</u>	845 846 847 848
<u>H. The defaulting State may appeal the action of the Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.</u>	849 850 851 852 853 854
<u>I. Dispute Resolution</u>	855
<u>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.</u>	856 857 858
<u>2. The Commission shall promulgate a Rule providing for both mediation and binding dispute resolution for disputes, as appropriate.</u>	859 860 861

J. Enforcement 862

1. By majority vote, as may be further provided by Rule, 863
the Commission may initiate legal action against a Member State 864
in default in the United States District Court for the District 865
of Columbia or the federal district where the Commission has its 866
principal offices to enforce compliance with the provisions of 867
the Compact and its promulgated Rules. A Member State by 868
enactment of this Compact consents to venue and jurisdiction in 869
such court for the purposes set forth herein. The relief sought 870
may include both injunctive relief and damages. In the event 871
judicial enforcement is necessary, the prevailing party shall be 872
awarded all costs of such litigation, including reasonable 873
attorney's fees. The remedies herein shall not be the exclusive 874
remedies of the Commission. The Commission may pursue any other 875
remedies available under federal or the defaulting Member 876
State's law. 877

2. A Member State may initiate legal action against the 878
Commission in the U.S. District Court for the District of 879
Columbia or the federal district where the Commission has its 880
principal offices to enforce compliance with the provisions of 881
the Compact and its promulgated Rules. The relief sought may 882
include both injunctive relief and damages. In the event 883
judicial enforcement is necessary, the prevailing party shall be 884
awarded all costs of such litigation, including reasonable 885
attorney's fees. 886

3. No person other than a Member State shall enforce this 887
Compact against the Commission. 888

SECTION 11. EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT 889

A. The Compact shall come into effect on the date on which 890

the Compact statute is enacted into law in the seventh Member 891
State ("Effective Date"). 892

1. On or after the Effective Date of the Compact, the 893
Commission shall convene and review the enactment of each of the 894
first seven Member States ("Charter Member States") to determine 895
if the statute enacted by each such Charter Member State is 896
materially different than the Model Compact. 897

a. A Charter Member State whose enactment is found to be 898
materially different from the Model Compact shall be entitled to 899
the default process set forth in Section 10. 900

b. If any Member State is later found to be in default, or 901
is terminated or withdraws from the Compact, the Commission 902
shall remain in existence and the Compact shall remain in effect 903
even if the number of Member States should be less than seven. 904

2. Member States enacting the Compact subsequent to the 905
seven initial Charter Member States shall be subject to the 906
process set forth herein and Commission Rule to determine if 907
their enactments are materially different from the Model Compact 908
and whether they qualify for participation in the Compact. 909

3. All actions taken for the benefit of the Commission or 910
in furtherance of the purposes of the administration of the 911
Compact prior to the effective date of the Compact or the 912
Commission coming into existence shall be considered to be 913
actions of the Commission unless specifically repudiated by the 914
Commission. The Commission shall own and have all rights to any 915
intellectual property developed on behalf or in furtherance of 916
the Commission by individuals or entities involved in organizing 917
or establishing the Commission, as may be further set forth in 918
Rules of the Commission. 919

4. Any State that joins the Compact subsequent to the Commission's initial adoption of the Rules and bylaws shall be subject to the Rules and bylaws as they exist on the date on which the Compact becomes law in that State. Any Rule that has been previously adopted by the Commission shall have the full force and effect of law on the date the Compact becomes law in that State. 920
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B. Any Member State may withdraw from this Compact by enacting a statute repealing the same. 927
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1. A Member State's withdrawal shall not take effect until one hundred eighty (180) days after enactment of the repealing statute. 929
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2. Withdrawal shall not affect the continuing requirement of the withdrawing State's Respiratory Therapy Licensing Authority to comply with the investigative and Adverse Action reporting requirements of this Compact prior to the effective date of withdrawal. 932
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3. Upon the enactment of a statute withdrawing from this Compact, a State shall immediately provide notice of such withdrawal to all Licensees and Compact Privilege holders (of which the Commission has a record) within that State. Notwithstanding any subsequent statutory enactment to the contrary, such withdrawing State shall continue to recognize all licenses granted pursuant to this Compact for a minimum of one hundred eighty (180) days after the date of such notice of withdrawal. 937
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C. Nothing contained in this Compact shall be construed to invalidate or prevent any licensure agreement or other cooperative arrangement between a Member State and a non-Member 946
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State that does not conflict with the provisions of this 949
Compact. 950

D. This Compact may be amended by the Member States. No 951
amendment to this Compact shall become effective and binding 952
upon any Member State until it is enacted into the laws of all 953
Member States. 954

SECTION 12. CONSTRUCTION AND SEVERABILITY 955

A. This Compact and the Commission's rulemaking authority 956
shall be liberally construed so as to effectuate the purposes 957
and the implementation and administration of the Compact. 958
Provisions of the Compact expressly authorizing or requiring the 959
promulgation of Rules shall not be construed to limit the 960
Commission's rulemaking authority solely for those purposes. 961

B. The provisions of this Compact shall be severable, and 962
if any phrase, clause, sentence or provision of this Compact is 963
held by a court of competent jurisdiction to be contrary to the 964
constitution of any Member State, a State seeking participation 965
in the Compact, or of the United States, or the applicability 966
thereof to any government, agency, person or circumstance is 967
held to be unconstitutional by a court of competent 968
jurisdiction, the validity of the remainder of this Compact and 969
the applicability thereof to any other government, agency, 970
person or circumstance shall not be affected thereby. 971

C. Notwithstanding subsection B of this section, the 972
Commission may deny a State's participation in the Compact or, 973
in accordance with the requirements of Section 10, terminate a 974
Member State's participation in the Compact, if it determines 975
that a constitutional requirement of a Member State is a 976
material departure from the Compact. Otherwise, if this Compact 977

shall be held to be contrary to the constitution of any Member 978
State, the Compact shall remain in full force and effect as to 979
the remaining Member States and in full force and effect as to 980
the Member State affected as to all severable matters. 981

SECTION 13. CONSISTENT EFFECT AND CONFLICT WITH OTHER 982
STATE LAWS 983

A. Nothing herein shall prevent or inhibit the enforcement 984
of any other law of a Member State that is not inconsistent with 985
the Compact. 986

B. Any laws, statutes, regulations, or other legal 987
requirements in a Member State in conflict with the Compact are 988
superseded to the extent of the conflict, including any 989
subsequently enacted State laws. 990

C. All permissible agreements between the Commission and 991
the Member States are binding in accordance with their terms. 992

D. Other than as expressly set forth herein, nothing in 993
this Compact will impact initial licensure. 994

Sec. 4761.21. Not later than sixty days after the 995
"Respiratory Care Interstate Compact" is entered into under 996
section 4761.20 of the Revised Code, the state medical board, in 997
accordance with Section 7 of the compact, shall select one 998
individual to serve as a commissioner on the respiratory care 999
interstate compact commission created under the compact. The 1000
board shall fill a vacancy in this position not later than sixty 1001
days after the vacancy occurs. 1002

Sec. 4761.22. (A) "Compact privilege" and "home state" 1003
have the same meanings as in section 4761.20 of the Revised 1004
Code. 1005

(B) Any individual who holds a compact privilege pursuant 1006
to the "Respiratory Care Interstate Compact" entered into under 1007
section 4761.20 of the Revised Code shall comply with sections 1008
4776.01 to 4776.04 of the Revised Code within sixty days after 1009
receiving the compact privilege in this state, unless a criminal 1010
records check that meets equivalent requirements has already 1011
been completed by the individual's home state. 1012

On receipt of the results of a criminal records check 1013
conducted pursuant to this section, the state medical board may 1014
pursue any action on the compact privilege authorized by section 1015
4761.09 of the Revised Code. 1016