

1 AN ACT relating to administrative regulations and declaring an emergency.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. Neither the Governor, an executive agency, nor an administrative  
4 body shall have any authority to promulgate administrative regulations except as provided  
5 in KRS Chapter 13A.

6 ➔Section 2. KRS 13A.010 is amended to read as follows:

7 As used in this chapter, unless the context otherwise requires:

8 (1) "Administrative body" means each state board, bureau, cabinet, commission,  
9 department, authority, officer, or other entity, except the General Assembly and the  
10 Court of Justice, authorized by law to promulgate administrative regulations;

11 (2) "Administrative regulation" means each statement of general applicability  
12 promulgated by an administrative body that implements, interprets, or prescribes  
13 law or policy, or describes the organization, procedure, or practice requirements of  
14 any administrative body. The term includes an existing administrative regulation, a  
15 new administrative regulation, an emergency administrative regulation, an  
16 administrative regulation in contemplation of a statute, and the amendment or repeal  
17 of an existing administrative regulation, but does not include:

18 (a) Statements concerning only the internal management of an administrative  
19 body and not affecting private rights or procedures available to the public;

20 (b) Declaratory rulings;

21 (c) Intradepartmental memoranda not in conflict with KRS 13A.130;

22 (d) Statements relating to acquisition of property for highway purposes and  
23 statements relating to the construction or maintenance of highways; or

24 (e) Rules, regulations, and policies of the governing boards of institutions that  
25 make up the postsecondary education system defined in KRS 164.001  
26 pertaining to students attending or applicants to the institutions, to faculty and  
27 staff of the respective institutions, or to the control and maintenance of land

- 1           and buildings occupied by the respective institutions;
- 2   (3) "Adopted" means that an administrative regulation has become effective in  
3       accordance with the provisions of this chapter;
- 4   (4) "Authorizing signature" means the signature of the head of the administrative body  
5       authorized by statute to promulgate administrative regulations;
- 6   (5) "Commission" means the Legislative Research Commission;
- 7   (6) "Effective" means that an administrative regulation has completed the legislative  
8       subcommittee review established by KRS 13A.290, 13A.330, and 13A.331;
- 9   (7) "Federal mandate" means any federal constitutional, legislative, or executive law or  
10      order that requires or permits any administrative body to engage in regulatory  
11      activities that impose compliance standards, reporting requirements, recordkeeping,  
12      or similar responsibilities upon entities in the Commonwealth;
- 13   (8) "Federal mandate comparison" means a written statement containing the  
14      information required by KRS 13A.245;
- 15   (9) "Filed" or "promulgated" means that an administrative regulation, or other  
16      document required to be filed by this chapter, has been submitted to the  
17      Commission in accordance with this chapter;
- 18   (10) "Last effective date" means the latter of:
- 19      (a) The most recent date an ordinary administrative regulation became effective,  
20          without including the date a technical amendment was made pursuant to KRS  
21          13A.040(10), 13A.2255(2), or 13A.312; or
- 22      (b) The date a certification letter was filed with the regulations compiler for that  
23          administrative regulation pursuant to KRS 13A.3104(4), if the letter stated  
24          that the administrative regulation shall remain in effect without amendment.
- 25   (11) "Local government" means and includes a city, county, urban-county, charter  
26      county, consolidated local government, special district, or a quasi-governmental  
27      body authorized by the Kentucky Revised Statutes or a local ordinance;

1 (12) "Major economic impact" means an overall annual economic impact from an  
2 administrative regulation of five hundred thousand dollars (\$500,000) or more on  
3 state and local government and regulated persons and entities as determined by  
4 the General Assembly sitting in regular session, or in special session called for  
5 the purpose of considering administrative regulations;

6 (13) "Proposed administrative regulation" means an administrative regulation that:

- 7 (a) Has been filed by an administrative body; and  
8 (b) Has not become effective or been withdrawn;

9 (14)~~(13)~~ "Regulatory impact analysis" means a written statement containing the  
10 provisions required by KRS 13A.240;

11 (15)~~(14)~~ "Small business" means a business entity, including its affiliates, that:

- 12 (a) Is independently owned and operated; and  
13 (b) 1. Employs fewer than one hundred fifty (150) full-time employees or their  
14 equivalent; or  
15 2. Has gross annual sales of less than six million dollars (\$6,000,000);

16 (16)~~(15)~~ "Statement of consideration" means the document required by KRS 13A.280  
17 in which the administrative body summarizes the comments received, its responses  
18 to those comments, and the action taken, if any, as a result of those comments and  
19 responses;

20 (17)~~(16)~~ "Subcommittee" means the Administrative Regulation Review Subcommittee,  
21 any other subcommittee of the Legislative Research Commission, an interim joint  
22 committee, or a House and Senate standing committee;

23 (18)~~(17)~~ "Tiering" means the tailoring of regulatory requirements to fit the particular  
24 circumstances surrounding regulated entities; and

25 (19)~~(18)~~ "Written comments" means comments submitted to the administrative body's  
26 contact person identified pursuant to KRS 13A.220(6)(d) via hand delivery, United  
27 States mail, e-mail, or facsimile and may include but is not limited to comments

1 submitted internally from within the promulgating administrative body or from  
2 another administrative body.

3 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO  
4 READ AS FOLLOWS:

5 **Any administrative regulation that has a major economic impact, as defined in Section**  
6 **2 of this Act, shall not take effect until the General Assembly enacts legislation**  
7 **ratifying the administrative regulation. Following ratification the administrative**  
8 **regulation shall become effective on the effective date of the ratifying legislation.**

9 ➔Section 4. KRS 13A.250 is amended to read as follows:

10 (1) An administrative body that promulgates an administrative regulation shall consider  
11 the cost that the administrative regulation may cause state or local government **and**  
12 **regulated entities** to incur.

13 **(2) A two (2) part cost analysis shall be completed for each administrative regulation:**

14 **(a) In the first part,** the cost analysis shall include the projected cost or cost  
15 savings to the Commonwealth of Kentucky and each of its affected agencies,  
16 and the projected cost or cost savings to affected local governments, including  
17 cities, counties, fire departments, and school districts.

18 **(b) In the second part, the cost analysis shall include the projected cost or costs**  
19 **savings to the regulated entities affected by the administrative regulation.**

20 **(c)** Agencies **or entities** affected by the administrative regulation may submit  
21 comments in accordance with KRS 13A.270(1) to the promulgating  
22 administrative body **and**~~or~~ to **the committees of the General Assembly**~~a~~  
23 ~~subcommittee~~ reviewing the administrative regulation.

24 ~~(3)~~~~(2)~~ Each administrative body that promulgates an administrative regulation shall  
25 prepare and submit with the administrative regulation a fiscal note. The fiscal note  
26 shall state:

27 (a) The number of the administrative regulation;

- 1 (b) The name, e-mail address, and telephone number of the contact person of the  
2 administrative body identified pursuant to KRS 13A.220(6)(d), and, if  
3 applicable, the name, e-mail address, and telephone number of an alternate  
4 person to be contacted with specific questions about the fiscal note;
- 5 (c) ~~Each~~~~The~~ unit, part, or division of state or local government the  
6 administrative regulation will affect;
- 7 (d) In detail, the aspect or service of state or local government to which the  
8 administrative regulation relates, including identification of the applicable  
9 state or federal statute or regulation that mandates the aspect or service or  
10 authorizes the action taken by the administrative regulation;~~and~~
- 11 (e) The estimated effect of the administrative regulation on the expenditures and  
12 revenues of a state or local government agency for the first full year the  
13 administrative regulation will be in effect. If specific dollar estimates cannot  
14 be determined, the administrative body shall provide a brief narrative to  
15 explain the fiscal impact of the administrative regulation;
- 16 **(f) The estimated effect of the administrative regulation on the expenditures**  
17 **and revenues of each regulated entity impacted by the administrative**  
18 **regulation for the first full year the administrative regulation will be in**  
19 **effect. If specific dollar estimates cannot be determined, the administrative**  
20 **body shall provide a brief narrative to explain the economic impact of the**  
21 **administrative regulation; and**
- 22 **(g) The conclusion of the promulgating administrative body as to whether the**  
23 **administrative regulation will have an overall economic impact of five**  
24 **hundred thousand dollars (\$500,000) or more on state and local**  
25 **governments and regulated entities.**
- 26 ~~(4)~~~~(3)~~ Any administrative body may request the advice and assistance of the  
27 Commission in the preparation of the fiscal note.

1       ➔Section 5. KRS 13A.190 is amended to read as follows:

2       **(1) Neither the Governor, an executive agency, nor an administrative body shall**  
 3       **promulgate an emergency administrative regulation or any other type of**  
 4       **administrative regulation that seeks to circumvent or curtail the legislative review**  
 5       **process for administrative regulations as prescribed by this chapter.**

6       **(2) As of the effective date of this Act, the General Assembly hereby terminates all**  
 7       **existing emergency administrative regulations in force and prohibits the**  
 8       **Governor, any executive agency, or any administrative body from issuing any**  
 9       **emergency administration regulations**

10      ~~[(1) An emergency administrative regulation is one that:~~

11           ~~(a) Must be placed into effect immediately in order to:~~

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

13                   2. Prevent a loss of federal or state funds;

14                   3. Meet a deadline for the promulgation of an administrative regulation that  
 15                   is established by state statute or federal law; or

16                   4. Protect human health and the environment; and

17           ~~(b) 1. Is temporary in nature and will expire as provided in this section; or~~

18                   2. Is temporary in nature and will be replaced by an ordinary administrative  
 19                   regulation as provided in this section.

20      ~~(2) Emergency administrative regulations shall become effective and shall be~~  
 21      ~~considered as adopted upon filing. Emergency administrative regulations shall be~~  
 22      ~~published in the Administrative Register in accordance with the publication~~  
 23      ~~deadline established in KRS 13A.050(3).~~

24      ~~(3) (a) Except as provided by paragraph (b) of this subsection, emergency~~  
 25      ~~administrative regulations shall expire two hundred seventy (270) days after~~  
 26      ~~the date of filing or when the same matter filed as an ordinary administrative~~  
 27      ~~regulation filed for review is adopted, whichever occurs first.~~

1       ~~(b) If an administrative body extends the time for filing a statement of~~  
2       ~~consideration as provided by KRS 13A.280(2)(b), an emergency~~  
3       ~~administrative regulation shall remain in effect for two hundred seventy (270)~~  
4       ~~days after the date of filing plus the number of days extended under the~~  
5       ~~provisions of KRS 13A.280(2)(b) or when the same matter filed as an~~  
6       ~~ordinary administrative regulation filed for review is adopted, whichever~~  
7       ~~occurs first.~~

8       ~~(4) Except as established in subsection (5) of this section, an emergency administrative~~  
9       ~~regulation with the same number or title or governing the same subject matter shall~~  
10       ~~not be filed for a period of nine (9) months after it has been initially filed. No other~~  
11       ~~emergency administrative regulation that is identical to the previously filed~~  
12       ~~emergency administrative regulation shall be promulgated.~~

13       ~~(5) If an emergency administrative regulation with the same number or title or~~  
14       ~~governing the same subject matter as an emergency administrative regulation filed~~  
15       ~~within the previous nine (9) months is filed, it shall contain a detailed explanation~~  
16       ~~of the manner in which it differs from the previously filed emergency administrative~~  
17       ~~regulation. The detailed explanation shall be included in the statement of emergency~~  
18       ~~required by subsection (6) of this section.~~

19       ~~(6) Each emergency administrative regulation shall contain a statement of:~~

20       ~~(a) The nature of the emergency;~~

21       ~~(b) The reasons why an ordinary administrative regulation is not sufficient;~~

22       ~~(c) Whether or not the emergency administrative regulation will be replaced by an~~  
23       ~~ordinary administrative regulation;~~

24       ~~(d) If the emergency administrative regulation will be replaced by an ordinary~~  
25       ~~administrative regulation, the following statement: "The ordinary~~  
26       ~~administrative regulation (is or is not) identical to this emergency~~  
27       ~~administrative regulation.";~~

1       ~~(e) If the emergency administrative regulation will not be replaced by an ordinary~~  
2           ~~administrative regulation, the reasons therefor; and~~

3       ~~(f) If applicable, the explanation required by subsection (5) of this section.~~

4       ~~(7) (a) An administrative body shall attach the:~~

5           ~~1. Statement of emergency required by subsection (6) of this section to the~~  
6           ~~front of the original and each copy of a proposed emergency~~  
7           ~~administrative regulation; and~~

8           ~~2. Regulatory impact analysis, tiering statement, federal mandate~~  
9           ~~comparison, fiscal note, summary of material incorporated by~~  
10          ~~reference if applicable, and other forms or documents required by~~  
11          ~~the provisions of this chapter to the back of the emergency~~  
12          ~~administrative regulation.~~

13       ~~(b) An administrative body shall file with the regulations compiler:~~

14           ~~1. The original and five (5) copies of the emergency administrative~~  
15           ~~regulation; and~~

16           ~~2. At the same time as, or prior to, filing the paper version, an electronic~~  
17           ~~version of the emergency administrative regulation and the attachments~~  
18           ~~required by paragraph (a) of this subsection saved as a single document~~  
19           ~~for each emergency administrative regulation in an electronic format~~  
20           ~~approved by the regulations compiler.~~

21       ~~(c) The original and four (4) copies of each emergency administrative regulation~~  
22       ~~shall be stapled in the top left corner. The fifth copy of each emergency~~  
23       ~~administrative regulation shall not be stapled. The original and the five (5)~~  
24       ~~copies of each emergency administrative regulation shall be grouped together.~~

25       ~~(8) (a) If an emergency administrative regulation will not be replaced by an ordinary~~  
26       ~~administrative regulation, the administrative body shall schedule a public~~  
27       ~~hearing and public comment period pursuant to KRS 13A.270(1). The public~~



1           ~~hearing and public comment period information required by KRS 13A.270(2)~~  
2           ~~shall be attached to the back of the emergency administrative regulation.~~

3           ~~(b) If an emergency administrative regulation will be replaced by an ordinary~~  
4           ~~administrative regulation:~~

5           ~~1. The ordinary administrative regulation shall be filed at the same time as~~  
6           ~~the emergency administrative regulation that will be replaced; and~~

7           ~~2. A public hearing and public comment period shall not be required for~~  
8           ~~the emergency administrative regulation.~~

9           ~~(9) The statement of emergency shall have a two (2) inch top margin. The number of~~  
10           ~~the emergency administrative regulation shall be typed directly below the heading~~  
11           ~~"Statement of Emergency." The number of the emergency administrative regulation~~  
12           ~~shall be the same number as the ordinary administrative regulation followed by an~~  
13           ~~"E."~~

14           ~~(10) Each executive department emergency administrative regulation shall be signed by~~  
15           ~~the head of the administrative body and countersigned by the Governor prior to~~  
16           ~~filing with the Commission. These signatures shall be on the statement of~~  
17           ~~emergency attached to the front of the emergency administrative regulation.~~

18           ~~(11) (a) If an ordinary administrative regulation that was filed to replace an emergency~~  
19           ~~administrative regulation is withdrawn, the emergency administrative~~  
20           ~~regulation shall expire on the date the ordinary administrative regulation is~~  
21           ~~withdrawn.~~

22           ~~(b) If an ordinary administrative regulation that was filed to replace an emergency~~  
23           ~~administrative regulation is withdrawn, the administrative body shall inform~~  
24           ~~the regulations compiler of the reasons for withdrawal in writing.~~

25           ~~(12) (a) If an emergency administrative regulation that was intended to be replaced by~~  
26           ~~an ordinary administrative regulation is withdrawn, the emergency~~  
27           ~~administrative regulation shall expire on the date it is withdrawn.~~

1       ~~(b) If an emergency administrative regulation has been withdrawn, the ordinary~~  
 2       ~~administrative regulation that was filed with it shall not expire unless the~~  
 3       ~~administrative body informs the regulations compiler that the ordinary~~  
 4       ~~administrative regulation is also withdrawn.~~

5       ~~(c) If an emergency administrative regulation is withdrawn, the administrative~~  
 6       ~~body shall inform the regulations compiler of the reasons for withdrawal in~~  
 7       ~~writing.~~

8       ~~(13) A subcommittee may review an emergency administrative regulation and may~~  
 9       ~~recommend to the Governor that the administrative regulation be withdrawn].~~

10       ➔Section 6. KRS 13A.330 is amended to read as follows:

11       (1) (a) If a filed administrative regulation **that does not have a major economic**  
 12       **impact** has been found deficient, the subcommittee shall transmit to the  
 13       Governor and the regulations compiler:

- 14           1. A copy of the finding of deficiency and other relevant findings,  
 15           recommendations, or comments; and
- 16           2. A request that the Governor determine whether the administrative  
 17           regulation shall:
  - 18               a. Be withdrawn;
  - 19               b. Be amended at a subcommittee meeting pursuant to KRS 13A.320  
 20               to conform to the finding of deficiency; or
  - 21               c. Become effective pursuant to the provisions of this section  
 22               notwithstanding the finding of deficiency.

23       (b) The Governor shall transmit his or her determination to the Commission and  
 24       the regulations compiler.

25       (c) A filed administrative regulation **that does not have a major economic**  
 26       **impact** that has been found deficient shall be considered as adopted and  
 27       become effective after:

- 1            1.    a.    The review period established in this chapter has been completed;
- 2                                and
- 3                                b.    The regulations compiler has received the Governor's
- 4    determination that the administrative regulation shall become
- 5    effective pursuant to the provisions of this section notwithstanding
- 6    the finding of deficiency; or
- 7            2.    The subcommittee that found the filed administrative regulation
- 8                                deficient subsequently determines that it is not deficient in accordance
- 9                                with KRS 13A.335, provided that this determination was made prior to
- 10                               receipt by the regulations compiler of the Governor's determination.
- 11 (2) If an effective administrative regulation has been found deficient by a
- 12    subcommittee, the subcommittee shall transmit to the Governor a copy of its finding
- 13    of deficiency and other findings, recommendations, or comments it deems
- 14    appropriate.
- 15        ➔Section 7. KRS 13A.331 is amended to read as follows:
- 16    A filed administrative regulation that ***does not have a major economic impact and*** has
- 17    not been deferred or found deficient shall be considered as adopted and shall become
- 18    effective:
- 19    (1) Upon adjournment of a meeting of an interim joint committee if:
- 20            (a)    The administrative regulation was on the meeting agenda; and
- 21            (b)    A quorum was present;
- 22    (2) Upon adjournment of a meeting of a joint standing committee if:
- 23            (a)    The administrative regulation was on the meeting agenda; and
- 24            (b)    A quorum was present;
- 25    (3) Upon adjournment of a meeting of a House or Senate standing committee if:
- 26            (a)    The administrative regulation was on its meeting agenda;
- 27            (b)    A quorum was present; and

1 (c) The administrative regulation has previously been on a meeting agenda of the  
2 other standing committee when a quorum was present; or

3 (4) At the expiration of the review period established in KRS 13A.290(7), if within the  
4 review period a subcommittee has failed to meet or failed to place a filed  
5 administrative regulation on a meeting agenda.

6 ➔Section 8. KRS 13A.040 is amended to read as follows:

7 The director of the Legislative Research Commission shall appoint an administrative  
8 regulations compiler who shall:

9 (1) Receive administrative regulations, and other documents required to be filed by the  
10 provisions of this chapter, tendered for filing;

11 (2) Stamp administrative regulations tendered for filing with the time and date of  
12 receipt;

13 (3) Provide administrative and support services to the subcommittee;

14 (4) Maintain a file of administrative regulations and other documents required to be  
15 filed by this chapter, for public inspection, with suitable indexes;

16 (5) Maintain a file of ineffective administrative regulations;

17 (6) Maintain a file of material incorporated by reference, including superseded or  
18 ineffective material incorporated by reference;

19 (7) Prepare the Kentucky Administrative Regulations Service;

20 (8) Upon request, certify copies of administrative regulations and other documents that  
21 have been filed with the regulations compiler;

22 (9) Correct errors that do not change the substance of an administrative regulation,  
23 including, but not limited to, typographical errors, errors in format, and grammatical  
24 errors;

25 (10) (a) Change items in an administrative regulation in response to a specific written  
26 request for a technical amendment submitted by the administrative body if the  
27 regulations compiler determines that the requested changes do not affect the

- 1 substance of the administrative regulation. Examples of technical amendments  
2 include the address of the administrative body, citations to statutes or other  
3 administrative regulations if a format change within that statute or  
4 administrative regulation has changed the numbering or lettering of parts, or  
5 other changes in accordance with KRS 13A.312; and
- 6 (b) Notify the administrative body within thirty (30) business days of receipt of a  
7 technical amendment letter the status of the request, including:
- 8 1. Any requested changes that are accepted as technical amendments; and  
9 2. Any requested changes that are not accepted as technical amendments;
- 10 (11) Refuse to accept for filing administrative regulations, and other documents required  
11 to be filed by this chapter, that do not conform to the drafting, formatting, or filing  
12 requirements established by the provisions of KRS~~[-13A.190(4) to (10),]~~ 13A.220,  
13 13A.222(1), (2), and (3), 13A.230, and 13A.280, and notify the administrative body  
14 in writing of the reasons for refusing to accept an administrative regulation for  
15 filing;
- 16 (12) Maintain a list of all administrative regulation numbers and the corresponding last  
17 effective date, based on the information included in the history line of each  
18 administrative regulation; and
- 19 (13) Perform other duties required by the Commission or by a subcommittee.
- 20 ➔Section 9. KRS 13A.050 is amended to read as follows:
- 21 (1) The Legislative Research Commission shall compile, publish, and distribute the  
22 administrative regulations filed by administrative bodies. This compilation shall be  
23 known as the Kentucky Administrative Regulations Service. The Legislative  
24 Research Commission shall maintain the official version of the administrative  
25 regulations in an electronic database that shall be made available to the public as  
26 provided by KRS 7.500.
- 27 (2) (a) There is hereby created a publication known as "Administrative Register of

- 1 Kentucky" or "Administrative Register" to be published on a monthly basis by  
2 the Legislative Research Commission for the purpose of giving notice of  
3 administrative regulations filed in accordance with this chapter.
- 4 (b) Every administrative regulation forwarded to the Legislative Research  
5 Commission shall have its complete text published in the Administrative  
6 Register along with the accompanying statements required by KRS~~[13A.190,]~~  
7 13A.210, 13A.2251(1), 13A.240, 13A.245, 13A.250, and 13A.270.
- 8 (c) Within five (5) workdays of the publication of an administrative regulation in  
9 the Administrative Register, an administrative body shall:
- 10 1. Review the text and accompanying statements of the administrative  
11 regulation; and
- 12 2. Notify the regulations compiler in writing or by e-mail of errors.
- 13 (3) The Administrative Register shall be published the first day of each month and shall  
14 include all administrative regulations received by the Legislative Research  
15 Commission by 12 noon, eastern time, on the fifteenth day of the preceding month.  
16 When the fifteenth day falls on a Saturday, Sunday, or holiday, the deadline is the  
17 workday that immediately precedes the Saturday, Sunday, or holiday.
- 18 (4) The compiler shall cause to be prepared a certificate to the effect that the text of the  
19 administrative regulations as published in this service is correct. One (1) copy of the  
20 Kentucky Administrative Regulations Service with the original certificate therein  
21 shall be provided to the Office of the Secretary of State.
- 22 (5) The Commission shall prescribe reasonable fees for subscription to the Kentucky  
23 Administrative Regulations Service and the Administrative Register. All fees paid  
24 to the Commission for these publications shall be placed in the State Treasury to the  
25 credit of a revolving trust or agency fund account, for use by the Legislative  
26 Research Commission in carrying out the provisions of this section.
- 27 (6) Copies of administrative regulations or other items required to be filed by this

1 chapter shall be made available to any interested party upon request to the  
2 Legislative Research Commission. The Commission may prescribe reasonable fees  
3 for duplication services and all fees paid to the Commission for duplication services  
4 shall be placed in the State Treasury to the credit of a revolving trust or agency fund  
5 account, for use by the Legislative Research Commission in carrying out the  
6 provisions of this subsection.

7 ➔Section 10. KRS 13A.230 is amended to read as follows:

- 8 (1) The administrative body shall attach the following forms to the back of the original  
9 and each copy of an administrative regulation:
- 10 (a) Regulatory impact analysis as required by KRS 13A.240;
  - 11 (b) Tiering statement as required by KRS 13A.210;
  - 12 (c) Fiscal note as required by KRS 13A.250;
  - 13 (d) Federal mandate comparison, if applicable, as required by KRS 13A.245; and
  - 14 (e) The summaries provided for in KRS 13A.2245, 13A.2251, or 13A.2255, if  
15 applicable.
- 16 (2) The forms required by subsection (1) of this section shall be obtained from the  
17 regulations compiler.
- 18 (3) The electronic version of an administrative regulation and the attachments required  
19 by subsection (1) of this section shall be sent by e-mail to the regulations compiler  
20 in a single document at the same time as, or prior to, filing the paper version in  
21 accordance with KRS~~[13A.190,]~~ 13A.220~~[,]~~ or 13A.280 in an electronic format  
22 approved by the regulations compiler.

23 ➔Section 11. KRS 314.475 is amended to read as follows:

24 The Nurse Licensure Compact is hereby enacted and entered into with all other  
25 jurisdictions that legally join in the Compact, which is, in form, substantially as follows:

26 ARTICLE I

27 Findings and Declaration of Purpose

- 1 a. The party states find that:
- 2 1. The health and safety of the public are affected by the degree of compliance
- 3 with and the effectiveness of enforcement activities related to state nurse
- 4 licensure laws;
- 5 2. Violations of nurse licensure and other laws regulating the practice of nursing
- 6 may result in injury or harm to the public;
- 7 3. The expanded mobility of nurses and the use of advanced communication
- 8 technologies as part of our nation's health care delivery system require greater
- 9 coordination and cooperation among states in the areas of nurse licensure and
- 10 regulation;
- 11 4. New practice modalities and technology make compliance with individual
- 12 state nurse licensure laws difficult and complex;
- 13 5. The current system of duplicative licensure for nurses practicing in multiple
- 14 states is cumbersome and redundant for both nurses and states; and
- 15 6. Uniformity of nurse licensure requirements throughout the states promotes
- 16 public safety and public health benefits.
- 17 b. The general purposes of this Compact are to:
- 18 1. Facilitate the states' responsibility to protect the public's health and safety;
- 19 2. Ensure and encourage the cooperation of party states in the areas of nurse
- 20 licensure and regulation;
- 21 3. Facilitate the exchange of information between party states in the areas of
- 22 nurse regulation, investigation and adverse actions;
- 23 4. Promote compliance with the laws governing the practice of nursing in each
- 24 jurisdiction;
- 25 5. Invest all party states with the authority to hold a nurse accountable for
- 26 meeting all state practice laws in the state in which the patient is located at the
- 27 time care is rendered through the mutual recognition of party state licenses;



- 1           6.    Decrease redundancies in the consideration and issuance of nurse licenses;  
2           and  
3           7.    Provide opportunities for interstate practice by nurses who meet uniform  
4           licensure requirements.
- 5    c.    The following provisions of this Compact shall apply in this state:
- 6           1.    By entering into this Compact, this state authorizes the licensing board as  
7           defined in Article II. g. of this Compact and as created by KRS Chapter 314 to  
8           implement the provisions of this Compact.
- 9           2.    Notwithstanding any provision of this Compact to the contrary:
- 10           i.    When a rule is adopted pursuant to Article VIII of this Compact, the  
11           licensing board of this state as defined by Article II. g. of this Compact  
12           shall have sixty (60) days to review the rule for the purpose of filing the  
13           rule as an ~~emergency administrative regulation pursuant to KRS~~  
14           ~~13A.190 and for filing the rule as an accompanying ordinary~~  
15           administrative regulation, following the requirements of KRS Chapter  
16           13A. Failure by the licensing board of this state as defined by Article II.  
17           g. of this Compact to promulgate a rule adopted by the Interstate  
18           Commission of Nurse Licensure Compact Administrators as an  
19           administrative regulation pursuant to KRS Chapter 13A shall result in  
20           the initiation of the process for withdrawal as set forth in Article X of  
21           this Compact. Nothing in these provisions shall negate the applicability  
22           and effect of Article VIII. j. of this Compact to this state.
- 23           ii.   If the proposed administrative regulation is found deficient and the  
24           deficiency is not resolved pursuant to KRS 13A.330 or 13A.335, the  
25           provisions of Article IX of this Compact shall apply. In the event that  
26           the procedures under Article IX of this Compact fail to resolve an issue,  
27           the provisions of Article X of this Compact shall apply.



- 1 organization composed of and controlled by licensing boards.
- 2 d. "Current significant investigative information" means:
- 3 1. Investigative information that a licensing board, after a preliminary inquiry
- 4 that includes notification and an opportunity for the nurse to respond, if
- 5 required by state law, has reason to believe is not groundless and, if proved
- 6 true, would indicate more than a minor infraction; or
- 7 2. Investigative information that indicates that the nurse represents an immediate
- 8 threat to public health and safety regardless of whether the nurse has been
- 9 notified and had an opportunity to respond.
- 10 e. "Encumbrance" means a revocation or suspension of, or any limitation on, the full
- 11 and unrestricted practice of nursing imposed by a licensing board.
- 12 f. "Home state" means the party state which is the nurse's primary state of residence.
- 13 g. "Licensing board" means a party state's regulatory body responsible for issuing
- 14 nurse licenses.
- 15 h. "Multistate license" means a license to practice as a registered or a licensed
- 16 practical/vocational nurse (LPN/VN) issued by a home state licensing board that
- 17 authorizes the licensed nurse to practice in all party states under a multistate
- 18 licensure privilege.
- 19 i. "Multistate licensure privilege" means a legal authorization associated with a
- 20 multistate license permitting the practice of nursing as either a registered nurse
- 21 (RN) or LPN/VN in a remote state.
- 22 j. "Nurse" means RN or LPN/VN, as those terms are defined by each party state's
- 23 practice laws.
- 24 k. "Party state" means any state that has adopted this Compact.
- 25 l. "Remote state" means a party state, other than the home state.
- 26 m. "Single-state license" means a nurse license issued by a party state that authorizes
- 27 practice only within the issuing state and does not include a multistate licensure

1 privilege to practice in any other party state.

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

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

9

### ARTICLE III

#### 10 General Provisions and Jurisdiction

11 a. A multistate license to practice registered or licensed practical/vocational nursing  
12 issued by a home state to a resident in that state will be recognized by each party  
13 state as authorizing a nurse to practice as a registered nurse (RN) or as a licensed  
14 practical/vocational nurse (LPN/VN), under a multistate licensure privilege, in each  
15 party state.

16 b. A state must implement procedures for considering the criminal history records of  
17 applicants for initial multistate license or licensure by endorsement. Such  
18 procedures shall include the submission of fingerprints or other biometric-based  
19 information by applicants for the purpose of obtaining an applicant's criminal  
20 history record information from the Federal Bureau of Investigation and the agency  
21 responsible for retaining that state's criminal records.

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

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

26 2. i. Has graduated or is eligible to graduate from a licensing board-approved  
27 RN or LPN/VN prelicensure education program; or

- 1           ii. Has graduated from a foreign RN or LPN/VN prelicensure education  
2           program that (a) has been approved by the authorized accrediting body  
3           in the applicable country and (b) has been verified by an independent  
4           credentials review agency to be comparable to a licensing board-  
5           approved prelicensure education program;
- 6           3. Has, if a graduate of a foreign prelicensure education program, not taught in  
7           English or, if English is not the individual's native language, successfully  
8           passed an English proficiency examination that includes the components of  
9           reading, speaking, writing and listening;
- 10          4. Has successfully passed an NCLEX-RN or NCLEX-PN Examination or  
11          recognized predecessor, as applicable;
- 12          5. Is eligible for or holds an active, unencumbered license;
- 13          6. Has submitted, in connection with an application for initial licensure or  
14          licensure by endorsement, fingerprints or other biometric data for the purpose  
15          of obtaining criminal history record information from the Federal Bureau of  
16          Investigation and the agency responsible for retaining that state's criminal  
17          records;
- 18          7. Has not been convicted or found guilty, or has entered into an agreed  
19          disposition, of a felony offense under applicable state or federal criminal law;
- 20          8. Has not been convicted or found guilty, or has entered into an agreed  
21          disposition, of a misdemeanor offense related to the practice of nursing as  
22          determined on a case-by-case basis;
- 23          9. Is not currently enrolled in an alternative program;
- 24          10. Is subject to self-disclosure requirements regarding current participation in an  
25          alternative program; and
- 26          11. Has a valid United States Social Security number.
- 27          d. All party states shall be authorized, in accordance with existing state due process

1 law, to take adverse action against a nurse's multistate licensure privilege such as  
2 revocation, suspension, probation or any other action that affects a nurse's  
3 authorization to practice under a multistate licensure privilege, including cease and  
4 desist actions. If a party state takes such action, it shall promptly notify the  
5 administrator of the coordinated licensure information system. The administrator of  
6 the coordinated licensure information system shall promptly notify the home state  
7 of any such actions by remote states.

8 e. A nurse practicing in a party state must comply with the state practice laws of the  
9 state in which the client is located at the time service is provided. The practice of  
10 nursing is not limited to patient care, but shall include all nursing practice as  
11 defined by the state practice laws of the party state in which the client is located.  
12 The practice of nursing in a party state under a multistate licensure privilege will  
13 subject a nurse to the jurisdiction of the licensing board, the courts and the laws of  
14 the party state in which the client is located at the time service is provided.

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

21 g. Any nurse holding a home state multistate license, on the effective date of this  
22 Compact, may retain and renew the multistate license issued by the nurse's then-  
23 current home state, provided that:

24 1. A nurse, who changes primary state of residence after this Compact's effective  
25 date, must meet all applicable Article III.c. requirements to obtain a multistate  
26 license from a new home state.

27 2. A nurse who fails to satisfy the multistate licensure requirements in Article III.

1 c. of this Compact due to a disqualifying event occurring after this Compact's  
2 effective date shall be ineligible to retain or renew a multistate license, and the  
3 nurse's multistate license shall be revoked or deactivated in accordance with  
4 applicable rules adopted by the Interstate Commission of Nurse Licensure  
5 Compact Administrators ("Commission").

6 ARTICLE IV

7 Applications for Licensure in a Party State

- 8 a. Upon application for a multistate license, the licensing board in the issuing party  
9 state shall ascertain, through the coordinated licensure information system, whether  
10 the applicant has ever held, or is the holder of, a license issued by any other state,  
11 whether there are any encumbrances on any license or multistate licensure privilege  
12 held by the applicant, whether any adverse action has been taken against any license  
13 or multistate licensure privilege held by the applicant and whether the applicant is  
14 currently participating in an alternative program.
- 15 b. A nurse may hold a multistate license, issued by the home state, in only one (1)  
16 party state at a time.
- 17 c. If a nurse changes primary state of residence by moving between two (2) party  
18 states, the nurse must apply for licensure in the new home state, and the multistate  
19 license issued by the prior home state will be deactivated in accordance with  
20 applicable rules adopted by the Commission.
- 21 1. The nurse may apply for licensure in advance of a change in primary state of  
22 residence.
- 23 2. A multistate license shall not be issued by the new home state until the nurse  
24 provides satisfactory evidence of a change in primary state of residence to the  
25 new home state and satisfies all applicable requirements to obtain a multistate  
26 license from the new home state.
- 27 d. If a nurse changes primary state of residence by moving from a party state to a non-

1 party state, the multistate license issued by the prior home state will convert to a  
2 single-state license, valid only in the former home state.

3 ARTICLE V

4 Additional Authorities Invested in Party State Licensing Boards

- 5 a. In addition to the other powers conferred by state law, a licensing board shall have  
6 the authority to:
- 7 1. Take adverse action against a nurse's multistate licensure privilege to practice  
8 within that party state.
    - 9 i. Only the home state shall have the power to take adverse action against a  
10 nurse's license issued by the home state.
    - 11 ii. For purposes of taking adverse action, the home state licensing board  
12 shall give the same priority and effect to reported conduct received from  
13 a remote state as it would if such conduct had occurred within the home  
14 state. In so doing, the home state shall apply its own state laws to  
15 determine appropriate action.
  - 16 2. Issue cease and desist orders or impose an encumbrance on a nurse's authority  
17 to practice within that party state.
  - 18 3. Complete any pending investigations of a nurse who changes primary state of  
19 residence during the course of such investigations. The licensing board shall  
20 also have the authority to take appropriate action(s) and shall promptly report  
21 the conclusions of such investigations to the administrator of the coordinated  
22 licensure information system. The administrator of the coordinated licensure  
23 information system shall promptly notify the new home state of any such  
24 actions.
  - 25 4. Issue subpoenas for both hearings and investigations that require the  
26 attendance and testimony of witnesses, as well as the production of evidence.  
27 Subpoenas issued by a licensing board in a party state for the attendance and



1 testimony of witnesses or the production of evidence from another party state  
2 shall be enforced in the latter state by any court of competent jurisdiction,  
3 according to the practice and procedure of that court applicable to subpoenas  
4 issued in proceedings pending before it. The issuing authority shall pay any  
5 witness fees, travel expenses, mileage and other fees required by the service  
6 statutes of the state in which the witnesses or evidence are located.

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

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

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

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

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

1 alternative program.

2 ARTICLE VI

3 Coordinated Licensure Information System and Exchange of Information

- 4 a. All party states shall participate in a coordinated licensure information system of all  
5 licensed registered nurses (RNs) and licensed practical/vocational nurses  
6 (LPNs/VNs). This system will include information on the licensure and disciplinary  
7 history of each nurse, as submitted by party states, to assist in the coordination of  
8 nurse licensure and enforcement efforts.
- 9 b. The Commission, in consultation with the administrator of the coordinated  
10 licensure information system, shall formulate necessary and proper procedures for  
11 the identification, collection and exchange of information under this Compact.
- 12 c. All licensing boards shall promptly report to the coordinated licensure information  
13 system any adverse action, any current significant investigative information, denials  
14 of applications (with the reasons for such denials) and nurse participation in  
15 alternative programs known to the licensing board regardless of whether such  
16 participation is deemed nonpublic or confidential under state law.
- 17 d. Current significant investigative information and participation in nonpublic or  
18 confidential alternative programs shall be transmitted through the coordinated  
19 licensure information system only to party state licensing boards.
- 20 e. Notwithstanding any other provision of law, all party state licensing boards  
21 contributing information to the coordinated licensure information system may  
22 designate information that may not be shared with non-party states or disclosed to  
23 other entities or individuals without the express permission of the contributing state.
- 24 f. Any personally identifiable information obtained from the coordinated licensure  
25 information system by a party state licensing board shall not be shared with non-  
26 party states or disclosed to other entities or individuals except to the extent  
27 permitted by the laws of the party state contributing the information.

- 1 g. Any information contributed to the coordinated licensure information system that is  
2 subsequently required to be expunged by the laws of the party state contributing that  
3 information shall also be expunged from the coordinated licensure information  
4 system.
- 5 h. The Compact administrator of each party state shall furnish a uniform data set to the  
6 Compact administrator of each other party state, which shall include, at a minimum:
- 7 1. Identifying information;
  - 8 2. Licensure data;
  - 9 3. Information related to alternative program participation; and
  - 10 4. Other information that may facilitate the administration of this Compact, as  
11 determined by Commission rules.
- 12 i. The Compact administrator of a party state shall provide all investigative  
13 documents and information requested by another party state.

#### 14 ARTICLE VII

##### 15 Establishment of the Interstate Commission of Nurse Licensure Compact Administrators

- 16 a. The party states hereby create and establish a joint public entity known as the  
17 Interstate Commission of Nurse Licensure Compact Administrators.
- 18 1. The Commission is an instrumentality of the party states.
  - 19 2. Venue is proper, and judicial proceedings by or against the Commission shall  
20 be brought solely and exclusively, in a court of competent jurisdiction where  
21 the principal office of the Commission is located. The Commission may  
22 waive venue and jurisdictional defenses to the extent it adopts or consents to  
23 participate in alternative dispute resolution proceedings.
  - 24 3. Nothing in this Compact shall be construed to be a waiver of sovereign  
25 immunity.
- 26 b. Membership, Voting and Meetings
- 27 1. Each party state shall have and be limited to one administrator. The head of

1 the state licensing board or designee shall be the administrator of this  
2 Compact for each party state. Any administrator may be removed or  
3 suspended from office as provided by the law of the state from which the  
4 Administrator is appointed. Any vacancy occurring in the Commission shall  
5 be filled in accordance with the laws of the party state in which the vacancy  
6 exists.

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

13 3. The Commission shall meet at least once during each calendar year.  
14 Additional meetings shall be held as set forth in the bylaws or rules of the  
15 commission.

16 4. All meetings shall be open to the public, and public notice of meetings shall  
17 be given in the same manner as required under the rulemaking provisions in  
18 Article VIII of this Compact.

19 5. The Commission may convene in a closed, nonpublic meeting if the  
20 Commission must discuss:

- 21 i. Noncompliance of a party state with its obligations under this Compact;
- 22 ii. The employment, compensation, discipline or other personnel matters,  
23 practices or procedures related to specific employees or other matters  
24 related to the Commission's internal personnel practices and procedures;
- 25 iii. Current, threatened or reasonably anticipated litigation;
- 26 iv. Negotiation of contracts for the purchase or sale of goods, services or  
27 real estate;

- 1 v. Accusing any person of a crime or formally censuring any person;
- 2 vi. Disclosure of trade secrets or commercial or financial information that is
- 3 privileged or confidential;
- 4 vii. Disclosure of information of a personal nature where disclosure would
- 5 constitute a clearly unwarranted invasion of personal privacy;
- 6 viii. Disclosure of investigatory records compiled for law enforcement
- 7 purposes;
- 8 ix. Disclosure of information related to any reports prepared by or on behalf
- 9 of the Commission for the purpose of investigation of compliance with
- 10 this Compact; or
- 11 x. Matters specifically exempted from disclosure by federal or state statute.
- 12 6. If a meeting, or portion of a meeting, is closed pursuant to this provision, the
- 13 Commission's legal counsel or designee shall certify that the meeting may be
- 14 closed and shall reference each relevant exempting provision. The
- 15 Commission shall keep minutes that fully and clearly describe all matters
- 16 discussed in a meeting and shall provide a full and accurate summary of
- 17 actions taken, and the reasons therefor, including a description of the views
- 18 expressed. All documents considered in connection with an action shall be
- 19 identified in such minutes. All minutes and documents of a closed meeting
- 20 shall remain under seal, subject to release by a majority vote of the
- 21 Commission or order of a court of competent jurisdiction.
- 22 c. The Commission shall, by a majority vote of the administrators, prescribe bylaws or
- 23 rules to govern its conduct as may be necessary or appropriate to carry out the
- 24 purposes and exercise the powers of this Compact, including but not limited to:
- 25 1. Establishing the fiscal year of the Commission;
- 26 2. Providing reasonable standards and procedures:
- 27 i. For the establishment and meetings of other committees; and

- 1           ii. Governing any general or specific delegation of any authority or function  
2                 of the Commission;
- 3           3. Providing reasonable procedures for calling and conducting meetings of the  
4                 Commission, ensuring reasonable advance notice of all meetings and  
5                 providing an opportunity for attendance of such meetings by interested parties,  
6                 with enumerated exceptions designed to protect the public's interest, the  
7                 privacy of individuals, and proprietary information, including trade secrets.  
8                 The Commission may meet in closed session only after a majority of the  
9                 administrators vote to close a meeting in whole or in part. As soon as  
10                practicable, the Commission must make public a copy of the vote to close the  
11                meeting revealing the vote of each administrator, with no proxy votes  
12                allowed;
- 13           4. Establishing the titles, duties and authority and reasonable procedures for the  
14                election of the officers of the Commission;
- 15           5. Providing reasonable standards and procedures for the establishment of the  
16                personnel policies and programs of the Commission. Notwithstanding any  
17                civil service or other similar laws of any party state, the bylaws shall  
18                exclusively govern the personnel policies and programs of the Commission;  
19                and
- 20           6. Providing a mechanism for winding up the operations of the Commission and  
21                the equitable disposition of any surplus funds that may exist after the  
22                termination of this Compact after the payment or reserving of all of its debts  
23                and obligations.
- 24        d. The Commission shall publish its bylaws and rules, and any amendments thereto, in  
25                a convenient form on the Web site of the Commission.
- 26        e. The Commission shall maintain its financial records in accordance with the bylaws.
- 27        f. The Commission shall meet and take such actions as are consistent with the

1 provisions of this Compact and the bylaws.

2 g. The Commission shall have the following powers:

- 3 1. To promulgate uniform rules to facilitate and coordinate implementation and  
4 administration of this Compact. The rules shall have the force and effect of  
5 law and shall be binding in all party states;
- 6 2. To bring and prosecute legal proceedings or actions in the name of the  
7 Commission, provided that the standing of any licensing board to sue or be  
8 sued under applicable law shall not be affected;
- 9 3. To purchase and maintain insurance and bonds;
- 10 4. To borrow, accept or contract for services of personnel, including but not  
11 limited to employees of a party state or nonprofit organizations;
- 12 5. To cooperate with other organizations that administer state compacts related  
13 to the regulation of nursing, including but not limited to sharing  
14 administrative or staff expenses, office space or other resources;
- 15 6. To hire employees, elect or appoint officers, fix compensation, define duties,  
16 grant such individuals appropriate authority to carry out the purposes of this  
17 Compact, and to establish the Commission's personnel policies and programs  
18 relating to conflicts of interest, qualifications of personnel and other related  
19 personnel matters;
- 20 7. To accept any and all appropriate donations, grants and gifts of money,  
21 equipment, supplies, materials and services, and to receive, utilize and dispose  
22 of the same; provided that at all times the Commission shall avoid any  
23 appearance of impropriety or conflict of interest;
- 24 8. To lease, purchase, accept appropriate gifts or donations of, or otherwise to  
25 own, hold, improve or use, any property, whether real, personal or mixed;  
26 provided that at all times the Commission shall avoid any appearance of  
27 impropriety;

- 1       9. To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise  
2           dispose of any property, whether real, personal or mixed;
- 3       10. To establish a budget and make expenditures;
- 4       11. To borrow money;
- 5       12. To appoint committees, including advisory committees comprised of  
6           administrators, state nursing regulators, state legislators or their  
7           representatives, and consumer representatives, and other such interested  
8           persons;
- 9       13. To provide and receive information from, and to cooperate with, law  
10           enforcement agencies;
- 11       14. To adopt and use an official seal; and
- 12       15. To perform such other functions as may be necessary or appropriate to achieve  
13           the purposes of this Compact consistent with the state regulation of nurse  
14           licensure and practice.
- 15    h. Financing of the Commission
- 16       1. The Commission shall pay, or provide for the payment of, the reasonable  
17           expenses of its establishment, organization and ongoing activities.
- 18       2. The Commission may also levy on and collect an annual assessment from  
19           each party state to cover the cost of its operations, activities and staff in its  
20           annual budget as approved each year. The aggregate annual assessment  
21           amount, if any, shall be allocated based upon a formula to be determined by  
22           the Commission, which shall promulgate a rule that is binding upon all party  
23           states.
- 24       3. The Commission shall not incur obligations of any kind prior to securing the  
25           funds adequate to meet the same; nor shall the Commission pledge the credit  
26           of any of the party states, except by, and with the authority of, such party state.
- 27       4. The Commission shall keep accurate accounts of all receipts and



1 disbursements. The receipts and disbursements of the Commission shall be  
2 subject to the audit and accounting procedures established under its bylaws.  
3 However, all receipts and disbursements of funds handled by the Commission  
4 shall be audited yearly by a certified or licensed public accountant, and the  
5 report of the audit shall be included in and become part of the annual report of  
6 the Commission.

7 i. Qualified Immunity, Defense and Indemnification

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

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

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

#### 10   ARTICLE VIII

##### 11 Rulemaking

12 a. The Commission shall exercise its rulemaking powers pursuant to the criteria set  
13 forth in this Article and the rules adopted thereunder. Rules and amendments shall  
14 become binding as of the date specified in each rule or amendment and shall have  
15 the same force and effect as provisions of this Compact.

16 b. Rules or amendments to the rules shall be adopted at a regular or special meeting of  
17 the Commission.

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

22           1. On the Web site of the Commission; and

23           2. On the Web site of each licensing board or the publication in which each state  
24 would otherwise publish proposed rules.

25 d. The notice of proposed rulemaking shall include:

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

- 1           2.    The text of the proposed rule or amendment, and the reason for the proposed  
2                    rule;
- 3           3.    A request for comments on the proposed rule from any interested person; and
- 4           4.    The manner in which interested persons may submit notice to the Commission  
5                    of their intention to attend the public hearing and any written comments.
- 6 e.    Prior to adoption of a proposed rule, the Commission shall allow persons to submit  
7           written data, facts, opinions and arguments, which shall be made available to the  
8           public.
- 9 f.    The Commission shall grant an opportunity for a public hearing before it adopts a  
10           rule or amendment.
- 11 g.    The Commission shall publish the place, time and date of the scheduled public  
12           hearing.
- 13           1.    Hearings shall be conducted in a manner providing each person who wishes to  
14                    comment a fair and reasonable opportunity to comment orally or in writing.  
15                    All hearings shall be recorded, and a copy shall be made available upon  
16                    request.
- 17           2.    Nothing in this section shall be construed as requiring a separate hearing on  
18                    each rule. Rules may be grouped for the convenience of the Commission at  
19                    hearings required by this section.
- 20 h.    If no one appears at the public hearing, the Commission may proceed with  
21           promulgation of the proposed rule.
- 22 i.    Following the scheduled hearing date, or by the close of business on the scheduled  
23           hearing date if the hearing was not held, the Commission shall consider all written  
24           and oral comments received.
- 25 j.    The Commission shall, by majority vote of all administrators, take final action on  
26           the proposed rule and shall determine the effective date of the rule, if any, based on  
27           the rulemaking record and the full text of the rule.

- 1 k. Upon determination that an emergency exists, the Commission may consider and  
2 adopt an emergency rule without prior notice, opportunity for comment or hearing,  
3 provided that the usual rulemaking procedures provided in this Compact and in this  
4 section shall be retroactively applied to the rule as soon as reasonably possible, in  
5 no event later than ninety (90) days after the effective date of the rule. For the  
6 purposes of this provision, an emergency rule is one that must be adopted  
7 immediately in order to:
- 8 1. Meet an imminent threat to public health, safety or welfare;
  - 9 2. Prevent a loss of Commission or party state funds; or
  - 10 3. Meet a deadline for the promulgation of an administrative rule that is required  
11 by federal law or rule.
- 12 1. The Commission may direct revisions to a previously adopted rule or amendment  
13 for purposes of correcting typographical errors, errors in format, errors in  
14 consistency or grammatical errors. Public notice of any revisions shall be posted on  
15 the Web site of the Commission. The revision shall be subject to challenge by any  
16 person for a period of thirty (30) days after posting. The revision may be challenged  
17 only on grounds that the revision results in a material change to a rule. A challenge  
18 shall be made in writing, and delivered to the Commission, prior to the end of the  
19 notice period. If no challenge is made, the revision will take effect without further  
20 action. If the revision is challenged, the revision may not take effect without the  
21 approval of the Commission.

## 22 ARTICLE IX

### 23 Oversight, Dispute Resolution and Enforcement

- 24 a. Oversight
- 25 1. Each party state shall enforce this Compact and take all actions necessary and  
26 appropriate to effectuate this Compact's purposes and intent.
  - 27 2. The Commission shall be entitled to receive service of process in any

1 proceeding that may affect the powers, responsibilities or actions of the  
2 Commission, and shall have standing to intervene in such a proceeding for all  
3 purposes. Failure to provide service of process in such proceeding to the  
4 Commission shall render a judgment or order void as to the Commission, this  
5 Compact or promulgated rules.

6 b. Default, Technical Assistance and Termination

- 7 1. If the Commission determines that a party state has defaulted in the  
8 performance of its obligations or responsibilities under this Compact or the  
9 promulgated rules, the Commission shall:
- 10 i. Provide written notice to the defaulting state and other party states of the  
11 nature of the default, the proposed means of curing the default or any  
12 other action to be taken by the Commission; and
- 13 ii. Provide remedial training and specific technical assistance regarding the  
14 default.
- 15 2. If a state in default fails to cure the default, the defaulting state's membership  
16 in this Compact may be terminated upon an affirmative vote of a majority of  
17 the administrators, and all rights, privileges and benefits conferred by this  
18 Compact may be terminated on the effective date of termination. A cure of the  
19 default does not relieve the offending state of obligations or liabilities incurred  
20 during the period of default.
- 21 3. Termination of membership in this Compact shall be imposed only after all  
22 other means of securing compliance have been exhausted. Notice of intent to  
23 suspend or terminate shall be given by the Commission to the governor of the  
24 defaulting state and to the executive officer of the defaulting state's licensing  
25 board and each of the party states.
- 26 4. A state whose membership in this Compact has been terminated is responsible  
27 for all assessments, obligations and liabilities incurred through the effective

1 date of termination, including obligations that extend beyond the effective  
2 date of termination.

3 5. The Commission shall not bear any costs related to a state that is found to be  
4 in default or whose membership in this Compact has been terminated unless  
5 agreed upon in writing between the Commission and the defaulting state.

6 6. The defaulting state may appeal the action of the Commission by petitioning  
7 the United States District Court for the District of Columbia or the federal  
8 district in which the Commission has its principal offices. The prevailing party  
9 shall be awarded all costs of such litigation, including reasonable attorneys'  
10 fees.

11 c. Dispute Resolution

12 1. Upon request by a party state, the Commission shall attempt to resolve  
13 disputes related to the Compact that arise among party states and between  
14 party and non-party states.

15 2. The Commission shall promulgate a rule providing for both mediation and  
16 binding dispute resolution for disputes, as appropriate.

17 3. In the event the Commission cannot resolve disputes among party states  
18 arising under this Compact:

19 i. The party states may submit the issues in dispute to an arbitration panel,  
20 which will be comprised of individuals appointed by the Compact  
21 administrator in each of the affected party states and an individual  
22 mutually agreed upon by the Compact administrators of all the party  
23 states involved in the dispute.

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

25 d. Enforcement

26 1. The Commission, in the reasonable exercise of its discretion, shall enforce the  
27 provisions and rules of this Compact.

- 1           2. By majority vote, the Commission may initiate legal action in the United
- 2           States District Court for the District of Columbia or the federal district in
- 3           which the Commission has its principal offices against a party state that is in
- 4           default to enforce compliance with the provisions of this Compact and its
- 5           promulgated rules and bylaws. The relief sought may include both injunctive
- 6           relief and damages. In the event judicial enforcement is necessary, the
- 7           prevailing party shall be awarded all costs of such litigation, including
- 8           reasonable attorneys' fees.
- 9           3. The remedies herein shall not be the exclusive remedies of the Commission.
- 10          The Commission may pursue any other remedies available under federal or
- 11          state law.

ARTICLE X

Effective Date, Withdrawal and Amendment

- 14 a. This Compact shall become effective and binding on the earlier of the date of
- 15 legislative enactment of this Compact into law by no fewer than twenty-six (26)
- 16 states or December 31, 2018. All party states to this Compact that also were parties
- 17 to the prior Nurse Licensure Compact, superseded by this Compact ("Prior
- 18 Compact"), shall be deemed to have withdrawn from said Prior Compact within six
- 19 (6) months after the effective date of this Compact.
- 20 b. Each party state to this Compact shall continue to recognize a nurse's multistate
- 21 licensure privilege to practice in that party state issued under the Prior Compact
- 22 until such party state has withdrawn from the Prior Compact.
- 23 c. Any party state may withdraw from this Compact by enacting a statute repealing the
- 24 same. A party state's withdrawal shall not take effect until six (6) months after
- 25 enactment of the repealing statute.
- 26 d. A party state's withdrawal or termination shall not affect the continuing requirement
- 27 of the withdrawing or terminated state's licensing board to report adverse actions

1 and significant investigations occurring prior to the effective date of such  
2 withdrawal or termination.

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

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

10 g. Representatives of non-party states to this Compact shall be invited to participate in  
11 the activities of the Commission, on a nonvoting basis, prior to the adoption of this  
12 Compact by all states.

## 13 ARTICLE XI

### 14 Construction and Severability

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

24 ➔Section 12. KRS 327.300 is amended to read as follows:

### 25 PHYSICAL THERAPY LICENSURE COMPACT

#### 26 SECTION 1. PURPOSE

27 The purpose of this Compact is to facilitate interstate practice of physical therapy with the



1 goal of improving public access to physical therapy services. The practice of physical  
2 therapy occurs in the state where the patient or client is located at the time of the patient  
3 or client encounter. The Compact preserves the regulatory authority of states to protect  
4 public health and safety through the current system of state licensure.

5 This Compact is designed to achieve the following objectives:

- 6 1. Increase public access to physical therapy services by providing for the mutual  
7 recognition of other member state licenses;
- 8 2. Enhance the states' ability to protect the public's health and safety;
- 9 3. Encourage the cooperation of member states in regulating multistate physical  
10 therapy practice;
- 11 4. Support spouses of relocating military members;
- 12 5. Enhance the exchange of licensure, investigative, and disciplinary information  
13 between member states; and
- 14 6. Allow a remote state to hold a provider of services with a compact privilege in that  
15 state accountable to that state's practice standards.

## 16 SECTION 2. DEFINITIONS

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

- 19 1. "Active duty military" means full-time duty status in the active uniformed service of  
20 the United States, including members of the National Guard and Reserve on active  
21 duty orders pursuant to 10 U.S.C. secs. 1209 and 1211;
- 22 2. "Adverse action" means disciplinary action taken by a physical therapy licensing  
23 board based upon misconduct, unacceptable performance, or a combination of both;
- 24 3. "Alternative program" means a nondisciplinary monitoring or practice remediation  
25 process approved by a physical therapy licensing board. This includes but is not  
26 limited to substance abuse issues;
- 27 4. "Compact privilege" means the authorization granted by a remote state to allow a

- 1 licensee from another member state to practice as a physical therapist or work as a  
2 physical therapist assistant in the remote state under its laws and rules. The practice  
3 of physical therapy occurs in the member state where the patient or client is located  
4 at the time of the patient or client encounter;
- 5 5. "Continuing competence" means a requirement, as a condition of license renewal, to  
6 provide evidence of participation in, completion of, or both participation in and  
7 completion of educational and professional activities relevant to practice or area of  
8 work;
- 9 6. "Data system" means a repository of information about licensees, including  
10 examination, licensure, investigative, compact privilege, and adverse action;
- 11 7. "Encumbered license" means a license that a physical therapy licensing board has  
12 limited in any way;
- 13 8. "Executive board" means a group of directors elected or appointed to act on behalf  
14 of, and within the powers granted to them by, the commission;
- 15 9. "Home state" means the member state that is the licensee's primary state of  
16 residence;
- 17 10. "Investigative information" means information, records, and documents received or  
18 generated by a physical therapy licensing board pursuant to an investigation;
- 19 11. "Jurisprudence requirement" means the assessment of an individual's knowledge of  
20 the laws and rules governing the practice of physical therapy in a state;
- 21 12. "Licensee" means an individual who currently holds an authorization from the state  
22 to practice as a physical therapist or to work as a physical therapist assistant;
- 23 13. "Member state" means a state that has enacted the Compact;
- 24 14. "Party state" means any member state in which a licensee holds a current license or  
25 compact privilege or is applying for a license or compact privilege;
- 26 15. "Physical therapist" means an individual who is licensed by a state to practice  
27 physical therapy;

- 1 16. "Physical therapist assistant" means an individual who is licensed or certified by a  
2 state and who assists the physical therapist in selected components of physical  
3 therapy;
- 4 17. "Physical therapy," "physical therapy practice," and "the practice of physical  
5 therapy" mean the care and services provided by or under the direction and  
6 supervision of a licensed physical therapist;
- 7 18. "Physical Therapy Compact Commission" or "commission" means the national  
8 administrative body whose membership consists of all states that have enacted the  
9 Compact;
- 10 19. "Physical therapy licensing board" or "licensing board" means the agency of a state  
11 that is responsible for the licensing and regulation of physical therapists and  
12 physical therapist assistants;
- 13 20. "Remote state" means a member state other than the home state where a licensee is  
14 exercising or seeking to exercise the compact privilege;
- 15 21. "Rule" means a regulation, principle, or directive promulgated by the commission  
16 that has the force of law; and
- 17 22. "State" means any state, commonwealth, district, or territory of the United States of  
18 America that regulates the practice of physical therapy.

19 SECTION 3. STATE PARTICIPATION IN THE COMPACT

- 20 A. To participate in the Compact, a state shall:
- 21 1. Participate fully in the commission's data system, including using the  
22 commission's unique identifier as defined in rules;
- 23 2. Have a mechanism in place for receiving and investigating complaints about  
24 licensees;
- 25 3. Notify the commission, in compliance with the terms of the Compact and  
26 rules, of any adverse action or the availability of investigative information  
27 regarding a licensee;

- 1       4. Fully implement a criminal background check requirement, within a time  
2       frame established by rule, by receiving the results of the Federal Bureau of  
3       Investigation record search on criminal background checks and use the results  
4       in making licensure decisions in accordance with Section 3.B. of this  
5       Compact;
  - 6       5. Comply with the rules of the commission;
  - 7       6. Utilize a recognized national examination as a requirement for licensure  
8       pursuant to the rules of the commission; and
  - 9       7. Have continuing competence requirements as a condition for license renewal.
- 10 B. Upon adoption of this statute, the member state may obtain biometric-based  
11 information from each physical therapy licensure applicant and submit this  
12 information to the Federal Bureau of Investigation for a criminal background check  
13 in accordance with 28 U.S.C. sec. 534 and 42 U.S.C. sec. 14616.
- 14 C. A member state shall grant the compact privilege to a licensee holding a valid  
15 unencumbered license in another member state in accordance with the terms of the  
16 Compact and rules.
- 17 D. Member states may charge a fee for granting a compact privilege.

18 SECTION 4. COMPACT PRIVILEGE

- 19 A. To exercise the compact privilege under the terms and provisions of the Compact,  
20 the licensee shall:
- 21       1. Hold a license in the home state;
  - 22       2. Have no encumbrance on any state license;
  - 23       3. Be eligible for a compact privilege in any member state in accordance with  
24       Section 4.D., G., and H. of this Compact;
  - 25       4. Have not had any adverse action against any license or compact privilege  
26       within the previous two (2) years;
  - 27       5. Notify the commission that the licensee is seeking the compact privilege

1           within a remote state or states;

2           6. Pay any applicable fees, including any state fee, for the compact privilege;

3           7. Meet any jurisprudence requirements established by the remote state or states  
4           in which the licensee is seeking a compact privilege; and

5           8. Report to the commission adverse action taken by any nonmember state  
6           within thirty (30) days from the date the adverse action is taken.

7    B. The compact privilege is valid until the expiration date of the home license. The  
8       licensee shall comply with the requirements of Section 4.A. of this Compact to  
9       maintain the compact privilege in the remote state.

10   C. A licensee providing physical therapy in a remote state under the compact privilege  
11       shall function within the laws and regulations of the remote state.

12   D. A licensee providing physical therapy in a remote state is subject to that state's  
13       regulatory authority. A remote state may, in accordance with due process and that  
14       state's laws, enforce any one (1) or combination of the following:

15       1. Remove a licensee's compact privilege in the remote state for a specific period  
16       of time;

17       2. Impose fines; and

18       3. Take any other necessary actions to protect the health and safety of its  
19       citizens.

20       The licensee is not eligible for a compact privilege in any state until the specific  
21       time for removal has passed and all fines are paid.

22   E. If a home state license is encumbered, the licensee shall lose the compact privilege  
23       in any remote state until the following occur:

24       1. The home state license is no longer encumbered; and

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

26   F. Once an encumbered license in the home state is restored to good standing, the  
27       licensee shall meet the requirements of Section 4.A. of this Compact to obtain a

1 compact privilege in any remote state.

2 G. If a licensee's compact privilege in any remote state is removed, the individual shall  
3 lose the compact privilege in any remote state until the following occur:

4 1. The specific period of time for which the compact privilege was removed has  
5 ended;

6 2. All fines have been paid; and

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

8 H. Once the requirements of Section 4.G. of this Compact have been met, the license  
9 shall meet the requirements in Section 4.A. of this Compact to obtain a compact  
10 privilege in a remote state.

#### 11 SECTION 5. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

12 A licensee who is active duty military or is the spouse of an individual who is active duty  
13 military may designate one (1) of the following as the home state:

14 A. Home of record;

15 B. Permanent Change of Station (PCS); or

16 C. State of current residence if it is different than the PCS state or home of record.

#### 17 SECTION 6. ADVERSE ACTIONS

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

20 B. A home state may take adverse action based on the investigative information of a  
21 remote state, so long as the home state follows its own procedures for imposing  
22 adverse action.

23 C. Nothing in this Compact shall override a member state's decision that participation  
24 in an alternative program may be used in lieu of adverse action and that this  
25 participation shall remain nonpublic if required by the member state's laws. Member  
26 states shall require licensees who enter any alternative programs in lieu of discipline  
27 to agree not to practice in any other member state during the term of the alternative

1 program without prior authorization from that other member state.

2 D. Any member state may investigate actual or alleged violations of the statutes and  
3 rules authorizing the practice of physical therapy in any other member state in  
4 which a physical therapist or physical therapist assistant holds a license or compact  
5 privilege.

6 E. A remote state may:

7 1. Take adverse actions as set forth in Section 4.D. of this Compact against a  
8 licensee's compact privilege in the state;

9 2. Issue subpoenas for the production of evidence and for hearings and  
10 investigations that require the attendance and testimony of witnesses.  
11 Subpoenas issued by a physical therapy licensing board in a party state for the  
12 production of evidence, the attendance and testimony of witnesses, or both  
13 from another party state shall be enforced in the latter state by any court of  
14 competent jurisdiction, according to the practice and procedure of that court  
15 applicable to subpoenas issued in proceedings pending before it. The issuing  
16 authority shall pay any witness fees, travel expenses, mileage, and other fees  
17 required by the service statutes of the state where the evidence, witnesses, or  
18 both are located; and

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

22 F. Joint Investigations

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

26 2. Member states shall share any investigative, litigation, or compliance  
27 materials in furtherance of any joint or individual investigation initiated under

1                   the Compact.

2   SECTION 7. ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT  
3   COMMISSION

4   A.   The Compact member states hereby create and establish a joint public agency  
5       known as the Physical Therapy Compact Commission:

- 6       1.   The commission is an instrumentality of the Compact states.
- 7       2.   Venue is proper and judicial proceedings by or against the commission shall  
8           be brought solely and exclusively in a court of competent jurisdiction where  
9           the principal office of the commission is located. The commission may waive  
10          venue and jurisdictional defenses to the extent it adopts or consents to  
11          participate in alternative dispute resolution proceedings.
- 12      3.   Nothing in this Compact shall be construed to be a waiver of sovereign  
13          immunity.

14   B.   Membership, Voting, and Meetings

- 15      1.   Each member state shall have and be limited to one (1) delegate selected by  
16          that member state's licensing board.
- 17      2.   The delegate shall be a current member of the licensing board, who is a  
18          physical therapist, physical therapist assistant, public member, or the board  
19          administrator.
- 20      3.   Any delegate may be removed or suspended from office as provided by the  
21          law of the state from which the delegate is appointed.
- 22      4.   The member state board shall fill any vacancy occurring in the commission.
- 23      5.   Each delegate shall be entitled to one (1) vote with regard to the promulgation  
24          of rules and creation of bylaws and shall otherwise have an opportunity to  
25          participate in the business and affairs of the commission.
- 26      6.   A delegate shall vote in person or by such other means as provided in the  
27          bylaws. The bylaws may provide for delegates' participation in meetings by



1 telephone or other means of communication.

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

4 C. The commission has the following powers and duties:

5 1. Establish the fiscal year of the commission;

6 2. Establish bylaws;

7 3. Maintain its financial records in accordance with the bylaws;

8 4. Meet and take any actions consistent with the provisions of this Compact and  
9 the bylaws;

10 5. Promulgate uniform rules to facilitate and coordinate implementation and  
11 administration of this Compact. The rules shall have the force of law and shall  
12 be binding in all member states;

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

16 7. Purchase and maintain insurance and bonds;

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

19 9. Hire employees, elect or appoint officers, fix compensation, define duties,  
20 grant these individuals appropriate authority to carry out the purposes of the  
21 Compact, and establish the commission's personnel policies and programs  
22 relating to conflicts of interest, qualifications of personnel, and other related  
23 personnel matters;

24 10. Accept, receive, utilize, and dispose of any appropriate donations and grants  
25 of money, equipment, supplies, materials, and services. At all times the  
26 commission shall avoid any appearance of impropriety, conflict of interest, or  
27 both;

- 1           11. Lease, purchase, accept appropriate gifts or donations of, or otherwise own,  
2           hold, improve, or use any real, personal, or mixed property. At all times the  
3           commission shall avoid any appearance of impropriety;
- 4           12. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise  
5           dispose of any real, personal, or mixed property;
- 6           13. Establish a budget and make expenditures;
- 7           14. Borrow money;
- 8           15. Appoint committees, including standing committees composed of members,  
9           state regulators, state legislators or their representatives, consumer  
10          representatives, and any other interested persons as designated in this  
11          Compact and the bylaws;
- 12          16. Provide and receive information from, and cooperate with, law enforcement  
13          agencies;
- 14          17. Establish and elect an executive board; and
- 15          18. Perform any other necessary or appropriate functions to achieve the purposes  
16          of this Compact consistent with the state regulation of physical therapy  
17          licensure and practice.

18   D.   The Executive Board

19           The executive board may act on behalf of the commission according to the terms of  
20           this Compact.

- 21          1.   The executive board shall be composed of nine (9) members:
  - 22               a.   Seven (7) voting members who are elected by the commission from the  
23               current membership of the commission;
  - 24               b.   One (1) ex officio, nonvoting member from the recognized national  
25               physical therapy professional association; and
  - 26               c.   One (1) ex officio, nonvoting member from the recognized membership  
27               organization of the physical therapy licensing boards.

- 1        2.    The ex officio members shall be selected by their respective organizations.
- 2        3.    The commission may remove any member of the executive board as provided
- 3                in bylaws.
- 4        4.    The executive board shall meet at least once annually.
- 5        5.    The executive board shall have the following duties and responsibilities:
- 6                a.    Recommend to the entire commission changes to the rules or bylaws,
- 7                        changes to this Compact legislation, fees paid by Compact member
- 8                        states such as annual dues, and any commission Compact fee charged to
- 9                        licensees for the compact privilege;
- 10                b.    Ensure Compact administration services are appropriately provided,
- 11                        contractual or otherwise;
- 12                c.    Prepare and recommend the budget;
- 13                d.    Maintain financial records on behalf of the commission;
- 14                e.    Monitor Compact compliance of member states and provide compliance
- 15                        reports to the commission;
- 16                f.    Establish additional committees as necessary; and
- 17                g.    Other duties as provided in rules or bylaws.
- 18    E.    Meetings of the Commission
- 19                1.    All meetings shall be open to the public, and public notice of meetings shall
- 20                        be given in the same manner as required under the rulemaking provisions in
- 21                        Section 9 of this Compact.
- 22                2.    The commission, the executive board, or other committees of the commission
- 23                        may convene in a closed, nonpublic meeting if the commission, executive
- 24                        board, or other committees of the commission need to discuss:
- 25                        a.    Noncompliance of a member state with its obligations under the
- 26                        Compact;
- 27                        b.    The employment, compensation, discipline, or other matters, practices,

- 1 or procedures related to specific employees or other matters related to  
2 the commission's internal personnel practices and procedures;
- 3 c. Current, threatened, or reasonably anticipated litigation;
- 4 d. Negotiation of contracts for the purchase, lease, or sale of goods,  
5 services, or real estate;
- 6 e. Accusing any person of a crime or formally censuring any person;
- 7 f. Disclosure of trade secrets or commercial or financial information that is  
8 privileged or confidential;
- 9 g. Disclosure of information of a personal nature where disclosure would  
10 constitute a clearly unwarranted invasion of personal privacy;
- 11 h. Disclosure of investigative records compiled for law enforcement  
12 purposes;
- 13 i. Disclosure of information related to any investigative reports prepared  
14 by, on behalf of, or for use of the commission or another committee  
15 charged with responsibility of investigation or determination of  
16 compliance issues pursuant to the Compact; or
- 17 j. Matters specifically exempted from disclosure by federal or member  
18 state statute.
- 19 3. If a meeting, or portion of a meeting, is closed pursuant to this provision, the  
20 commission's legal counsel or designee shall certify that the meeting may be  
21 closed and shall reference each relevant exempting provision.
- 22 4. The commission shall keep minutes that fully and clearly describe all matters  
23 discussed in a meeting and shall provide a full and accurate summary of  
24 actions taken, and the reasons for the actions, including a description of the  
25 views expressed. All documents considered in connection with an action shall  
26 be identified in these minutes. All minutes and documents of a closed meeting  
27 shall remain under seal, subject to release by a majority vote of the

1                   commission or order of a court of competent jurisdiction.

2    F.    Financing of the Commission

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

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

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

15          4.    The commission shall not incur obligations of any kind prior to securing the  
16          funds adequate to meet the obligations, nor shall the commission pledge the  
17          credit of any of the member states, except by and with the authority of the  
18          member state.

19          5.    The commission shall keep accurate accounts of all receipts and  
20          disbursements. The receipts and disbursements of the commission shall be  
21          subject to the audit and accounting procedures established under its bylaws.  
22          All receipts and disbursements of funds handled by the commission shall be  
23          audited yearly by a certified or licensed public accountant, and the report of  
24          the audit shall be included in and become part of the annual report of the  
25          commission.

26    G.    Qualified Immunity, Defense, and Indemnification

27          1.    The members, officers, executive director, employees, and representatives of

1 the commission shall be immune from suit and liability, either personally or in  
2 their official capacity, for any claim for damage to or loss of property or  
3 personal injury or other civil liability caused by or arising out of any actual or  
4 alleged act, error, or omission that occurred, or that the person against whom  
5 the claim is made had a reasonable basis for believing occurred, within the  
6 scope of commission employment, duties, or responsibilities. Nothing in this  
7 paragraph shall be construed to protect any person from suit, liability, or both  
8 for any damage, loss, injury, or liability caused by the intentional, willful, or  
9 wanton misconduct of that person.

10 2. The commission shall defend any member, officer, executive director,  
11 employee, or representative of the commission in any civil action seeking to  
12 impose liability arising out of any actual or alleged act, error, or omission that  
13 occurred within the scope of commission employment, duties, or  
14 responsibilities, or that the person against whom the claim is made had a  
15 reasonable basis for believing occurred within the scope of commission  
16 employment, duties, or responsibilities, if the actual or alleged act, error, or  
17 omission did not result from that person's intentional, willful, or wanton  
18 misconduct. Nothing in this paragraph shall be construed to prohibit that  
19 person from retaining his or her own counsel.

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

1           that person.

2   SECTION 8. DATA SYSTEM

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

6   B.   Notwithstanding any other provision of state law to the contrary, a member state  
7       shall submit a uniform data set to the data system on all individuals to whom this  
8       Compact is applicable as required by the rules of the commission, including:

9       1.   Identifying information;

10      2.   Licensure data;

11      3.   Adverse actions against a license or compact privilege;

12      4.   Nonconfidential information related to alternative program participation;

13      5.   Any denial of application for licensure, and the reason or reasons for the  
14       denial; and

15      6.   Other information that may facilitate the administration of this Compact, as  
16       determined by the rules of the commission.

17   C.   Investigative information pertaining to a licensee in any member state shall only be  
18       available to other party states.

19   D.   The commission shall promptly notify all member states of any adverse action taken  
20       against a licensee or an individual applying for a license. Adverse action  
21       information pertaining to a licensee in any member state shall be available to any  
22       other member state.

23   E.   Member states contributing information to the data system may designate  
24       information that may not be shared with the public without the express permission  
25       of the contributing state.

26   F.   Any information submitted to the data system that is subsequently required to be  
27       expunged by the laws of the member state contributing the information shall be

1 removed from the data system.

2 SECTION 9. RULEMAKING

3 A. The commission shall exercise its rulemaking powers pursuant to the criteria set  
4 forth in this section and the rules adopted under this section. Rules and amendments  
5 shall become binding as of the date specified in each rule or amendment.

6 B. If a majority of the legislatures of the member states reject a rule within four (4)  
7 years of the date of adoption of the rule, by enactment of a statute or resolution in  
8 the same manner used to adopt the Compact, then the rule shall have no further  
9 effect in any member state.

10 C. Rules or amendments to the rules shall be adopted at a regular or special meeting of  
11 the commission.

12 D. Prior to promulgation and adoption of a final rule or rules by the commission, and at  
13 least thirty (30) days in advance of the meeting at which the rule will be considered  
14 and voted upon, the commission shall file a Notice of Proposed Rulemaking:

- 15 1. On the Web site of the commission or other publicly accessible platform; and
- 16 2. On the Web site of each member state physical therapy licensing board or  
17 other publicly accessible platform or the publication in which each state  
18 would otherwise publish proposed rules.

19 E. The Notice of Proposed Rulemaking shall include:

- 20 1. The proposed time, date, and location of the meeting in which the rule will be  
21 considered and voted upon;
- 22 2. The text of the proposed rule or amendment and the reason for the proposed  
23 rule;
- 24 3. A request for comments on the proposed rule from any interested person; and
- 25 4. How interested persons may submit notice to the commission of their  
26 intention to attend the public hearing and submit any written comments.

27 F. Prior to adoption of a proposed rule, the commission shall allow persons to submit



1 written data, facts, opinions, and arguments, which shall be made available to the  
2 public.

3 G. The commission shall grant an opportunity for a public hearing before it adopts a  
4 rule or amendment if a hearing is requested by:

- 5 1. At least twenty-five (25) persons;
- 6 2. A state or federal governmental subdivision or agency; or
- 7 3. An association having at least twenty-five (25) members.

8 H. If a hearing is held on the proposed rule or amendment, the commission shall  
9 publish the place, time, and date of the scheduled public hearing. If the hearing is  
10 held via electronic means, the commission shall publish the mechanism for access  
11 to the electronic hearing.

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

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

18 3. All hearings shall be recorded. A copy of the recording shall be made  
19 available on request.

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

23 I. Following the scheduled hearing date, or by the close of business on the scheduled  
24 hearing date if the hearing was not held, the commission shall consider all written  
25 and oral comments received.

26 J. If no written notice of intent to attend the public hearing by interested parties is  
27 received, the commission may proceed with promulgation of the proposed rule

1 without a public hearing.

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

5 L. Upon determination that an emergency exists, the commission may consider and  
6 adopt an emergency rule without prior notice, opportunity for comment, or hearing,  
7 provided that the usual rulemaking procedures provided in the Compact and in this  
8 section shall be retroactively applied to the rule as soon as reasonably possible, in  
9 no event later than ninety (90) days after the effective date of the rule. For the  
10 purposes of this provision, an emergency rule is one that requires immediate  
11 adoption in order to:

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

13 2. Prevent a loss of commission or member state funds;

14 3. Meet a deadline for the promulgation of an administrative rule that is  
15 established by federal law or rule; or

16 4. Protect public health and safety.

17 M. The commission or an authorized committee of the commission may direct  
18 revisions to a previously adopted rule or amendment for purposes of correcting  
19 typographical errors, errors in format, errors in consistency, or grammatical errors.  
20 Public notice of any revisions shall be posted on the Web site of the commission.  
21 The revision shall be subject to challenge by any person for a period of thirty (30)  
22 days after posting. The revision may be challenged only on grounds that the revision  
23 results in a material change to a rule. A challenge shall be made in writing, and  
24 delivered to the chair of the commission prior to the end of the notice period. If no  
25 challenge is made, the revision shall take effect without further action. If the  
26 revision is challenged, the revision may not take effect without the approval of the  
27 commission.

1 SECTION 10. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

2 A. Oversight

3 1. The executive, legislative, and judicial branches of state government in each  
4 member state shall enforce this Compact and take all actions necessary and  
5 appropriate to effectuate the Compact's purposes and intent. The provisions of  
6 this Compact and the rules promulgated under this Compact shall have  
7 standing as statutory law.

8 2. All courts shall take judicial notice of the Compact and the rules in any  
9 judicial or administrative proceeding in a member state pertaining to the  
10 subject matter of this Compact that may affect the powers, responsibilities, or  
11 actions of the commission.

12 3. The commission shall be entitled to receive service of process in any judicial  
13 or administrative proceeding relating to this Compact, and shall have standing  
14 to intervene for all purposes in any judicial or administrative proceeding  
15 relating to this Compact. Failure to provide service of process to the  
16 commission shall render a judgment or order void as to the commission, this  
17 Compact, or promulgated rules.

18 B. Default, Technical Assistance, and Termination

19 1. If the commission determines that a member state has defaulted in the  
20 performance of its obligations or responsibilities under this Compact or the  
21 promulgated rules, the commission shall:

22 a. Provide written notice to the defaulting state and other member states  
23 regarding any one (1) or any combination of the following: the nature of  
24 the default, the proposed means of curing the default, and any other  
25 action to be taken by the commission; and

26 b. Provide remedial training and specific technical assistance regarding the  
27 default.

- 1           2. If a state in default fails to cure the default, the defaulting state may be  
2 terminated from the Compact upon an affirmative vote of a majority of the  
3 member states, and all rights, privileges, and benefits conferred by this  
4 Compact may be terminated on the effective date of termination. A cure of the  
5 default does not relieve the offending state of obligations or liabilities incurred  
6 during the period of default.
- 7           3. Termination of membership in the Compact shall be imposed only after all  
8 other means of securing compliance have been exhausted. Notice of intent to  
9 suspend or terminate shall be given by the commission to the Governor, the  
10 majority and minority leaders of the defaulting state's legislature, and each of  
11 the member states.
- 12          4. A state that has been terminated is responsible for all assessments, obligations,  
13 and liabilities incurred through the effective date of termination, including  
14 obligations that extend beyond the effective date of termination.
- 15          5. The commission shall not bear any costs related to a state that is found to be in  
16 default or that has been terminated from the Compact, unless agreed upon in  
17 writing between the commission and the defaulting state.
- 18          6. The defaulting state may appeal the action of the commission by petitioning  
19 the United States District Court for the District of Columbia or the federal  
20 district where the commission has its principal offices. The prevailing member  
21 shall be awarded all costs of this litigation, including reasonable attorney's  
22 fees.

23 C. Dispute Resolution

- 24          1. Upon request by a member state, the commission shall attempt to resolve  
25 disputes related to the Compact that arise among member states and between  
26 member and nonmember states.
- 27          2. The commission shall promulgate a rule providing for both mediation and

1 binding dispute resolution for disputes as appropriate.

2 D. Enforcement

3 1. The commission, in the reasonable exercise of its discretion, shall enforce the  
4 provisions and rules of this Compact.

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

13 3. The remedies authorized under this section shall not be the exclusive remedies  
14 of the commission. The commission may pursue any other remedies available  
15 under federal or state law.

16 SECTION 11. DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION  
17 FOR PHYSICAL THERAPY PRACTICE AND ASSOCIATED RULES,  
18 WITHDRAWAL, AND AMENDMENT

19 A. The Compact shall come into effect on the date on which the Compact statute is  
20 enacted into law in the tenth member state. The provisions, which become effective  
21 at that time, shall be limited to the powers granted to the commission relating to  
22 assembly and the promulgation of rules. Thereafter, the commission shall meet and  
23 exercise rulemaking powers necessary to the implementation and administration of  
24 the Compact.

25 B. Any state that joins the Compact subsequent to the commission's initial adoption of  
26 the rules shall be subject to the rules as they exist on the date on which the Compact  
27 becomes law in that state. Any rule that has been previously adopted by the

1 commission shall have the full force of law on the day the Compact becomes law in  
2 that state.

3 C. Any member state may withdraw from this Compact by enacting a statute repealing  
4 the Compact.

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

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

11 D. Nothing contained in this Compact shall be construed to invalidate or prevent any  
12 physical therapy licensure agreement or other cooperative arrangement between a  
13 member state and a nonmember state that does not conflict with the provisions of  
14 this Compact.

15 E. This Compact may be amended by the member states. No amendment to this  
16 Compact shall become effective and binding upon any member state until it is  
17 enacted into the laws of all member states.

## 18 SECTION 12. APPLICABILITY TO KENTUCKY STATE GOVERNMENT

19 In order to clarify the effect of certain provisions of this Compact and to ensure that the  
20 rights and responsibilities of the various branches of government are maintained, the  
21 following shall be in effect in this state:

22 A. By entering into this Compact, this state authorizes the licensing board as defined in  
23 Section 2.19. of this Compact and as created by KRS Chapter 327 to implement the  
24 provisions of this Compact.

25 B. Notwithstanding any provision of this Compact to the contrary:

26 1. When a rule is adopted pursuant to Section 9 of this Compact, the licensing  
27 board of this state as defined by Section 2.19. of this Compact shall have sixty

1 (60) days to review the rule for the purpose of filing the rule as an ~~emergency~~  
2 ~~administrative regulation pursuant to KRS 13A.190 and for filing the rule as~~  
3 ~~an accompanying ordinary~~ administrative regulation, following the  
4 requirements of KRS Chapter 13A. Failure by the licensing board of this state  
5 as defined by Section 2.19. of this Compact to promulgate a rule adopted by  
6 the Physical Therapy Compact Commission as an administrative regulation  
7 pursuant to KRS Chapter 13A shall result in the initiation of the process for  
8 withdrawal as set forth in Section 11 of this Compact. Nothing in these  
9 provisions shall negate the applicability and effect of Section 9.K. of this  
10 Compact to this state.

11 2. If the proposed administrative regulation is found deficient and the deficiency  
12 is not resolved pursuant to KRS 13A.330 or 13A.335, the provisions of  
13 Section 10 of this Compact shall apply. If the procedures under Section 10 of  
14 this Compact fail to resolve an issue, the provisions of Section 11 of this  
15 Compact shall apply.

16 3. If the Physical Therapy Compact Commission created by Section 7 of this  
17 Compact exercises its rulemaking authority in a manner that is beyond the  
18 scope of the purposes of this Compact, or the powers granted under this  
19 Compact, then such an action by the commission shall be invalid and have no  
20 force or effect.

21 C. Section 7.F. of this Compact pertaining to the financing of the commission shall not  
22 be interpreted to obligate the general fund of this state. Any funds used to finance  
23 this Compact shall be from money collected pursuant to KRS 327.080.

24 D. This Compact shall apply only to those physical therapists or physical therapist  
25 assistants who practice or work under a compact privilege.

## 26 SECTION 13. CONSTRUCTION AND SEVERABILITY

27 This Compact shall be liberally construed so as to effectuate its purposes. The provisions

1 of this Compact shall be severable, and if any phrase, clause, sentence, or provision of  
2 this Compact is declared to be contrary to the constitution of any party state or of the  
3 United States, or the Compact's applicability to any government, agency, person, or  
4 circumstance is held invalid, it shall not affect the validity of the remainder of this  
5 Compact and its applicability to any government, agency, person, or circumstance. If this  
6 Compact is held contrary to the constitution of any party state, the Compact shall remain  
7 in full effect as to the remaining party states, and shall remain in full effect in the affected  
8 party state as to all severable matters.

9       ➔Section 13. This Act shall be known and may be cited as the Kentucky REINS  
10 Act, or the Kentucky Regulations from the Executive in Need of Scrutiny Act.

11       ➔Section 14. Due to the devastating economic impact of some existing  
12 emergency regulations, and the lack of accountability provided in issuing emergency  
13 regulations, an emergency is declared to exist, and this Act takes effect upon its passage  
14 and approval by the Governor or upon its otherwise becoming law.