

Senate File 2139 - Introduced

SENATE FILE 2139

BY COMMITTEE ON STATE GOVERNMENT

(SUCCESSOR TO SSB 3046)

A BILL FOR

1 An Act enacting the athletic trainer compact.

2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

unofficial

1 Section 1. NEW SECTION. **147M.1 Athletic trainer compact.**

2 1. *Title and purpose.* This statute shall be known and cited
3 as the athletic trainer compact. The purposes of this compact
4 are to expand mobility of athletic training practice and improve
5 public access to services by providing qualified licensed
6 athletic trainers the ability to practice in other member states.
7 This compact preserves the regulatory authority of states to
8 protect public health and safety through the current system of
9 state licensure. This compact is designed to achieve the
10 following objectives:

11 a. Increase public access to athletic training and enhance
12 continuity of care by providing for the mutual recognition of
13 other licenses issued by member states.

14 b. Provide an additional streamlined opportunity for
15 interstate practice by licensed athletic trainers who meet
16 compact uniform requirements.

17 c. Promote mobility and workforce development by eliminating
18 the necessity for licenses in multiple states by providing for
19 the mutual recognition of other licenses issued by member states.

20 d. Reduce administrative burdens on licensed athletic
21 trainers and member states.

22 e. Enhance the states' ability to protect the public's health
23 and safety.

24 f. Encourage the cooperation of member states in regulating
25 interstate practice of licensed athletic trainers.

26 g. Support relocating active military members and their
27 spouses.

28 h. Enhance the exchange of licensure, investigative, and
29 disciplinary information among member states.

30 i. Allow for the use of telehealth to facilitate increased
31 access to athletic training services.

32 j. Support the uniformity of licensed athletic trainer
33 licensure requirements throughout the states.

34 k. Affirm the authority of all member states to hold a
35 licensed athletic trainer accountable for abiding by the scope of

1 practice in the state in which the patient is located at the time
2 of care.

3 1. Require adherence to the model compact language in order
4 to promote uniformity and ensure that all member states have
5 accepted and are mutually obligated to the same terms.

6 2. *Definitions.* As used in this compact, unless the context
7 requires otherwise, the following definitions shall apply:

8 a. "*Active military member*" means any individual with
9 fulltime duty status in the active armed forces of the United
10 States, including members of the national guard and reserve.

11 b. "*Adverse action*" means any administrative, civil,
12 equitable or criminal action permitted by a state's laws which is
13 imposed by a licensing authority or other authority against a
14 licensee, including actions against an individual's license or
15 compact privilege such as revocation, suspension, probation,
16 monitoring of the licensee, limitation on the licensee's
17 practice, or any other encumbrance on licensure affecting a
18 licensee's authorization to practice.

19 c. "*Alternative program*" means a non-disciplinary monitoring
20 or practice remediation process applicable to an athletic trainer
21 approved by a state licensing authority of a member state in
22 which the athletic trainer is licensed. This includes, but is
23 not limited to, programs to which licensees with substance use,
24 addiction, or mental health conditions are referred in lieu of
25 adverse action.

26 d. "*Athletic trainer compact commission*" or "*compact*
27 *commission*" means the government agency whose membership consists
28 of all states that have enacted this compact, as described herein
29 and which shall operate as an instrumentality of the member
30 states to administer and implement the compact according to its
31 terms.

32 e. "*Athletic training*" means the prevention, examination,
33 assessment, treatment and rehabilitation of emergent, acute, or
34 chronic injuries and medical conditions as defined by applicable
35 member state laws and regulations.

1 *f.* "BOC" means the board of certification, inc., or any
2 successor organization thereto.

3 *g.* "CAATE" means the commission on accreditation of athletic
4 training education or any successor organization thereto.

5 *h.* "Charter member state" means any member state which
6 enacted and made effective this compact by law before the compact
7 effective date specified herein.

8 *i.* "Commissioner" means the individual appointed by a member
9 state to serve as the member of the commission for that member
10 state.

11 *j.* "Compact privilege" means the legal authorization granted
12 by a remote state, equivalent to a license, allowing a licensee
13 from another member state to provide athletic training services
14 in a remote state.

15 *k.* "Compact qualifying license" means a license that is not
16 an encumbered license issued by a member state to practice
17 athletic training which qualifies the licensee to exercise a
18 compact privilege pursuant to subsection 4 of this compact.

19 *l.* "Continuing competence" means a requirement, as a
20 condition of license renewal, to provide evidence of successful
21 participation, and completion of, educational and professional
22 activities relevant to practice or area of work. For purposes of
23 this compact, evidence of active BOC certification may satisfy
24 the meaning of continuing competence as set forth herein.

25 *m.* "Criminal background check" means the submission of
26 fingerprints or other biometric-based information for a license
27 applicant for the purpose of obtaining that applicant's criminal
28 history record information, as defined in 28 C.F.R. §20.3(d),
29 from the federal bureau of investigation and the state's criminal
30 history record repository as defined in 28 C.F.R. §20.3(f).

31 *n.* "Current significant investigative information" means the
32 existence of any of the following:

33 (1) Investigative information that a licensing authority,
34 after a preliminary inquiry that includes notification and an
35 opportunity for the subject licensee to respond, if required by

1 state law, has reason to believe is not groundless and, if proven
2 true, would indicate more than a minor infraction.

3 (2) Investigative information that indicates that the subject
4 licensee represents an immediate threat to public health and
5 safety regardless of whether the subject licensee has been
6 notified and had an opportunity to respond.

7 o. "Data system" means the commission's repository of
8 information about licensees, including but not limited to
9 examinations, licensure, investigative information, compact
10 privileges, adverse actions, and alternative programs.

11 p. "Encumbrance" or "encumbered" means a revocation or
12 suspension of, or any limitation or condition on, the full and
13 unrestricted practice of athletic training.

14 q. "Executive committee" means a group of commissioners
15 elected or appointed to act on behalf of, and within the powers
16 granted to them by, the compact and commission.

17 r. "Investigative information" means information, records,
18 and documents received or generated by a licensing authority
19 pursuant to an investigation.

20 s. "Jurisprudence requirement" means the assessment of an
21 individual's knowledge of the laws and rules governing the
22 practice of athletic training, as applicable, in a state.

23 t. "License" means current authorization by a member state to
24 engage in the practice of athletic training.

25 u. "Licensee" or "licensed athletic trainer" means an
26 individual who currently holds an active, unrestricted license
27 and who meets all of the requirements outlined in subsection 4 of
28 this compact.

29 v. "Licensing authority" means the board or agency of a
30 state, or equivalent, that is responsible for the licensing and
31 regulation of athletic trainers.

32 w. "Member state" means a state that has enacted the compact.

33 x. "Model compact language" means the model language for the
34 athletic trainer compact on file with the council of state
35 governments or other entity as designated by the commission to

1 which all member states must substantively adhere and adopt.

2 y. "*Remote state*" means a member state other than the state
3 of qualifying licensure.

4 z. "*Rule*" means a regulation promulgated by an authorized
5 entity that has the force of law.

6 aa. "*Scope of practice*" means the procedures, actions, and
7 processes an athletic trainer licensed in a state is permitted to
8 undertake in that state and the circumstances under which the
9 licensee is permitted to undertake those procedures, actions and
10 processes. Such procedures, actions and processes and the
11 circumstances under which they may be undertaken may be
12 established through means, including, but not limited to,
13 statute, regulations, case law, and other processes available to
14 the state licensing authority or other government agency. Scope
15 of practice shall include any state requirements regarding
16 supervision or direction, if required by such state and as
17 further defined by such state's statutes and regulations.

18 ab. "*Single state license*" means a license issued by any
19 state that authorizes practice only within the issuing state.

20 ac. "*State*" means any state, commonwealth, district, or
21 territory of the United States of America.

22 ad. "*State of qualifying licensure*" means the member state
23 who has issued a compact qualifying license to a licensee
24 pursuant to this compact.

25 ae. "*Unencumbered license*" means a license that authorizes a
26 licensee to engage in the full and unrestricted practice of
27 athletic training.

28 3. *State participation in the compact.*

29 a. To be eligible to join this compact and to maintain
30 eligibility as a member state, a state must do all of the
31 following:

32 (1) Enact and maintain a statute that is not materially
33 different from the model compact language.

34 (2) License and regulate the practice of athletic training.

35 (3) Require that licensees in that state maintain continuing

1 competence standards as part of their state practice act or
2 rules.

3 (4) Have a mechanism in place for receiving and investigating
4 complaints about licensees.

5 (5) Grant the compact privilege to a licensee who meets all
6 the requirements outlined in subsection 4 in accordance with the
7 terms of the compact and any rules promulgated thereunder.

8 (6) Participate fully in the compact commission's data
9 system, including using the unique identifier as defined in
10 rules.

11 (7) Notify the compact commission, in compliance with the
12 terms of the compact and rules, of any adverse action or the
13 availability of current significant investigative information
14 regarding a licensee.

15 (8) Within a time frame established by rule, implement or
16 utilize procedures for considering the criminal history records
17 of applicants for a compact qualifying license which includes
18 receiving the results of the federal bureau of investigation
19 record search and using those results in making licensure
20 decisions. These procedures shall include the submission of
21 fingerprints or other biometric-based information by applicants
22 for the purpose of obtaining an applicant's criminal history
23 record information from the federal bureau of investigation and
24 the agency responsible for retaining that state's criminal
25 records.

26 (a) A member state must fully implement a criminal background
27 check requirement in order to participate in the issuance and
28 acceptance of compact privileges.

29 (b) Communication between a member state and the compact
30 commission or among member states regarding the verification of
31 eligibility for licensure through the compact shall not include
32 any information received from the federal bureau of investigation
33 relating to a federal criminal records check performed by a
34 member state.

35 (9) Comply with and enforce the rules of the compact

1 commission.

2 b. Member states may set and collect a fee for issuance and
3 renewal of a compact privilege to applicants.

4 c. Individuals without a compact qualifying license shall
5 continue to be able to apply for a member state's single state
6 license as provided under the laws of each member state.

7 d. Nothing in this compact shall affect the requirements
8 established by a member state for the issuance of a single state
9 license.

10 e. A compact qualifying license shall be recognized by each
11 remote state as authorizing that licensee to engage in the
12 practice of athletic training, under a compact privilege, in
13 another member state in accordance with the requirements in
14 subsection 4.

15 4. *Compact privilege.*

16 a. To be eligible for a compact privilege under the terms and
17 provisions of the compact, the licensee shall complete a criminal
18 background check performed by the licensing authority in the
19 state of qualifying licensure prior to entry in the compact and
20 shall do all of the following:

21 (1) Satisfy one of the following:

22 (a) Hold a valid current active certification through the
23 BOC, or its successor organization.

24 (b) If a licensee does not meet the requirements of
25 subsection 4, paragraph "a", subparagraph (1), subparagraph
26 division (a), the licensee must complete all of the following:

27 (i) An education program that is any of the following:

28 (A) At least a bachelor's degree with a major course of study
29 in athletic training, or an equivalent course of study from a
30 college or university accredited at the time of graduation by
31 CAATE, or its successor organization.

32 (B) An academic degree from a college or university in a
33 foreign country equivalent to the degree described in
34 subparagraph part (A) with a major course of study as described
35 in subparagraph part (A) that is accredited by CAATE, or its

1 successor organization.

2 (C) The substantial equivalent of the foregoing which the
3 commission may determine by rule.

4 (ii) Successful completion of the exam administered by the
5 BOC, or its successor organization, preceding the date of the
6 licensee's application for licensure in their state of qualifying
7 licensure or the substantial equivalent of the foregoing
8 requirement which the commission may determine by rule.

9 (2) Hold a compact qualifying license.

10 (3) Have not had any encumbrance against any license or
11 compact privilege to practice athletic training within the
12 previous two years.

13 (4) Be eligible for a compact privilege in any member state
14 in accordance with this subsection 4.

15 (5) Notify the compact commission that the licensee is
16 seeking the compact privilege within a remote state.

17 (6) Pay any applicable fees, including any state fee, for the
18 compact privilege.

19 (7) Meet only the continuing competence requirements
20 established by the state of qualifying licensure.

21 (8) Comply with any requirements of the state of qualifying
22 licensure as set forth in subsection 3.

23 (9) Meet any jurisprudence requirements established by the
24 remote state in which the licensee is seeking a compact
25 privilege.

26 (10) Report to the compact commission any adverse action,
27 encumbrance, or restriction on a license taken by any nonmember
28 state within thirty days from the date the action is taken.

29 b. The compact privilege is valid until the expiration date
30 of the compact qualifying license. To maintain a compact
31 privilege, renewal of the compact privilege shall be congruent
32 with the renewal of the compact qualifying license as the compact
33 commission may define by rule. The licensee must comply with the
34 requirements of this section to maintain the compact privilege in
35 the remote state. A licensee may apply for and hold compact

1 privileges in multiple member states.

2 c. A licensed athletic trainer must follow the scope of
3 practice of the member state where the patient is located. A
4 licensee engaging in the practice of athletic training in a
5 remote state under the compact privilege shall adhere to the
6 scope of practice laws and regulations of the remote state.
7 Licensees shall be responsible for educating themselves on, and
8 complying with, any and all scope of practice laws and
9 regulations and state laws relating to the remote practice of
10 athletic training, as applicable.

11 d. A licensee engaging in the practice of athletic training
12 in a remote state is subject to that state's regulatory
13 authority. A remote state may, in accordance with due process
14 and that state's laws, remove a licensee's compact privilege in
15 the remote state for a specific period of time, impose fines, or
16 take any other necessary actions to protect the health and safety
17 of its citizens. Any member state which undertakes such an
18 action shall promptly notify the member state and the commission
19 as specified in the rules. The licensee may be deemed to be
20 ineligible to exercise the compact privilege by any member state
21 until the specific time for removal has passed and all fines are
22 paid.

23 e. All member state disciplinary orders that impose adverse
24 action against a compact qualifying license shall result in
25 deactivation of the licensee's compact privilege in all member
26 states during the pendency of the order. If a compact qualifying
27 license is encumbered, the licensee shall lose the compact
28 privilege in any remote state until all of the following occur:

29 (1) The compact qualifying license is no longer encumbered.

30 (2) The licensee has not had any encumbrance or restriction
31 against any license, compact qualifying license or compact
32 privilege within the previous two years.

33 f. Once an encumbered license is restored to good standing as
34 a compact qualifying license, as certified by the licensing
35 authority, the licensee must meet the requirements of this

1 subsection to obtain a compact privilege in any remote state.

2 g. If a licensee's compact privilege in any remote state is
3 removed, that licensee may also lose the compact privilege in
4 other remote states, as each member state shall determine in its
5 sole authority, until all of the following occur:

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

8 (2) All fines have been paid.

9 (3) The licensee has not had any encumbrance or restriction
10 against any license or compact privilege within the previous two
11 years.

12 h. Once the requirements of paragraph "g" have been met, the
13 licensee must meet the requirements of paragraph "a" to obtain a
14 compact privilege in a remote state.

15 5. *Compact qualifying license.*

16 a. A licensee may only designate one license as the
17 licensee's compact qualifying license at a time. The procedures
18 for such designation may be further defined by compact commission
19 rule.

20 b. Nothing in this subsection shall require that the state of
21 qualifying licensure be the state of primary residence or state
22 of primary practice for the licensee.

23 c. Nothing in this compact shall interfere with a licensee's
24 ability to hold a single state license in multiple states.

25 d. Nothing in this compact shall affect the requirements
26 established by a member state for the issuance of a single state
27 license.

28 6. *Active military members or their spouses.* An active
29 military member or their spouse shall not be required to pay a
30 fee to the commission for a compact privilege. If a member state
31 chooses to charge a member state fee, it may choose to charge a
32 reduced fee or no fee to an active military member or their
33 spouse for a compact privilege.

34 7. *Adverse actions.*

35 a. A member state in which a licensee is issued a compact

1 qualifying license shall have the exclusive authority to impose
2 adverse action against the compact qualifying license issued by
3 that member state.

4 b. A member state may take adverse action based on current
5 significant investigative information of a remote state, so long
6 as the member state follows its own procedures for imposing
7 adverse action.

8 c. Nothing in this compact shall override a member state's
9 decision that participation in an alternative program may be used
10 in lieu of adverse action and that such participation shall
11 remain nonpublic if required by the member state's laws or rules.

12 d. A remote state shall have the authority to do all of the
13 following:

14 (1) Take adverse actions as set forth herein against a
15 licensee's compact privilege in that state.

16 (2) Issue subpoenas for both hearings and investigations that
17 require the attendance and testimony of witnesses as well as the
18 production of evidence.

19 (a) Subpoenas may be issued by a member state athletic
20 training licensing authority for the attendance and testimony of
21 witnesses and the production of evidence.

22 (b) A member state which issues a subpoena may request
23 service of that subpoena by another member state. The member
24 state receiving the request to serve a subpoena shall serve the
25 subpoena if it is deemed enforceable by a court of competent
26 jurisdiction according to the practice and procedure in the
27 receiving member state.

28 (c) The issuing authority shall pay any witness fees, travel
29 expenses, mileage, and other fees required by the service
30 statutes of the state where the witnesses or evidence are
31 located.

32 e. For purposes of taking adverse action, a member state
33 shall give the same priority and effect to reported conduct
34 received from another member state as it would if the conduct had
35 occurred within that state. In so doing, the investigating

1 member state shall apply its own state laws to determine
2 appropriate action.

3 *f.* A member state, if otherwise permitted by state law, may
4 recover from the affected licensee the costs of investigations
5 and dispositions of cases resulting from any adverse action taken
6 against that licensee.

7 *g.* Joint investigations.

8 (1) In addition to the authority granted to a member state by
9 its respective state law, any member state may participate with
10 other member states in joint investigations of licensees.

11 (2) Member states shall share any current significant
12 investigative information, litigation, or compliance materials in
13 furtherance of any joint or individual investigation initiated
14 under the compact. In sharing such information between member
15 state athletic trainer licensing authorities, all information
16 obtained shall be kept confidential, except as otherwise mutually
17 agreed upon by the sharing and receiving member state.

18 (3) A remote state may issue subpoenas on behalf of a member
19 state for both hearings and investigations that require the
20 attendance and testimony of witnesses as well as the production
21 of evidence.

22 *h.* If a member state takes adverse action, it shall promptly
23 notify the administrator of the data system. The administrator
24 of the data system shall promptly notify all member states of any
25 adverse actions by remote states.

26 *i.* Nothing in this compact permits a member state to take any
27 adverse action against a licensee or holder of a compact
28 privilege for conduct or practice occurring in another member
29 state that was legal in the member state at the time it was
30 undertaken.

31 8. *Establishment and operation of the commission.*

32 *a.* The compact member states hereby create and establish a
33 joint government agency whose membership consists of all member
34 states that have enacted the compact known as the athletic
35 trainer licensure compact commission. The compact commission is

1 an instrumentality of the member states acting jointly and not an
2 instrumentality of any one state. The compact commission shall
3 come into existence on or after the effective date of the compact
4 as set forth in subsection 12.

5 b. Membership, voting, and meetings.

6 (1) Each member state shall have and be limited to one
7 commissioner selected by that member state's licensing authority
8 within sixty days of the member state's effective date.

9 (2) The commissioner shall be an administrator or their
10 designated staff or current board member of the licensing
11 authority.

12 (3) The compact commission may recommend removal or
13 suspension of any commissioner from office.

14 (4) A member state's licensing authority shall fill any
15 vacancy of its commissioner occurring on the compact commission
16 within sixty days of the vacancy.

17 (5) Each commissioner shall be entitled to one vote on all
18 matters before the compact commission requiring a vote by the
19 commissioners.

20 (6) The compact commission shall meet at least once during
21 each calendar year. Additional meetings may be held as set forth
22 in the commission bylaws. A commissioner shall vote in person or
23 by such other means as provided in the bylaws. The bylaws may
24 provide for commissioners to meet by telecommunication,
25 videoconference, or other means of communication.

26 c. The compact commission shall have the following powers:

27 (1) Promulgate, adopt, and amend rules and bylaws.

28 (2) Establish code of conduct, confidentiality, and conflict
29 of interest policies for commissioners.

30 (3) Establish the fiscal year of the compact commission.

31 (4) Maintain its financial records in accordance with the
32 bylaws.

33 (5) Purchase and maintain insurance and insurance bonds.

34 (6) Accept, or contract for services of personnel, including,
35 but not limited to, employees of a member state.

- 1 (7) Conduct a financial review or audit.
- 2 (8) Hire employees, elect or appoint officers, fix
3 compensation, define duties, grant such individuals appropriate
4 authority to carry out the purposes of the compact, and establish
5 the compact commission's personnel policies and programs relating
6 to conflicts of interest, qualifications of personnel, and other
7 related personnel matters.
- 8 (9) Enter into contracts or arrangements for the management
9 of the affairs of the commission.
- 10 (10) Assess and collect fees.
- 11 (11) Accept any and all appropriate gifts, donations, grants
12 of money, other sources of revenue, equipment, supplies,
13 materials, and services, and receive, utilize, and dispose of the
14 same, provided that at all times the compact commission shall
15 avoid any appearance of impropriety or conflict of interest.
- 16 (12) Lease, purchase, retain, own, hold, improve, invest, or
17 use any property, real, personal, or mixed, or any undivided
18 interest therein.
- 19 (13) Sell, convey, mortgage, pledge, lease, exchange,
20 abandon, or otherwise dispose of any property real, personal, or
21 mixed.
- 22 (14) Establish a budget and make expenditures.
- 23 (15) Borrow and invest money.
- 24 (16) Meet and take such actions as are consistent with the
25 provisions of this compact, the compact commission's rules, and
26 the bylaws.
- 27 (17) Initiate and conclude legal proceedings or actions in
28 the name of the compact commission, provided that the standing of
29 any licensing authority to sue or be sued under applicable law
30 shall not be affected.
- 31 (18) Maintain and certify records and information provided to
32 a member state as the authenticated business records of the
33 compact commission, and designate an agent to do so on the
34 compact commission's behalf.
- 35 (19) Provide and receive information from, and cooperate

1 with, law enforcement agencies.

2 (20) Determine whether a state's adopted language is
3 materially different from the model compact language such that
4 the state would not qualify for participation in the compact.

5 (21) Establish and elect an executive committee, including a
6 chair and a vice chair, secretary, treasurer, and such other
7 offices as the commission shall establish by rule or bylaw.

8 (22) Appoint committees, including standing committees,
9 composed of member state commissioners, state regulators, state
10 legislators or their representatives, and consumer
11 representatives, and such other interested persons as may be
12 designated in this compact and the bylaws.

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

15 d. The executive committee.

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

20 (a) Exercise the powers and duties of the compact commission
21 during the interim between compact commission meetings, except
22 for adopting or amending rules, adopting or amending bylaws, and
23 exercising any other powers and duties expressly reserved to the
24 compact commission by rule or bylaw.

25 (b) Oversee the day-to-day activities of the administration
26 of the compact including enforcement and compliance with the
27 provisions of the compact, its rules and bylaws, and other such
28 duties as deemed necessary.

29 (c) Recommend to the compact commission changes to the rules
30 or bylaws, changes to this compact legislation, fees charged to
31 compact member states, fees charged to licensees, and other fees.

32 (d) Ensure compact administration services are appropriately
33 provided, including by contract.

34 (e) Prepare and recommend the budget.

35 (f) Maintain financial records on behalf of the compact

1 commission.

2 (g) Monitor compact compliance of member states and provide
3 compliance reports to the compact commission.

4 (h) Establish additional committees as necessary.

5 (i) Other duties as provided in the rules or bylaws of the
6 compact commission.

7 (2) The executive committee shall be composed of five voting
8 members, elected by the compact commission.

9 (a) The chair and vice chair of the compact commission, shall
10 be voting members of the executive committee.

11 (b) The compact commission shall elect up to three additional
12 voting members from the current membership of the compact
13 commission to include the offices of treasurer, secretary, and
14 one member-at-large.

15 (c) Up to four ex officio, nonvoting members from recognized
16 national athletic trainer organizations.

17 (3) The compact commission may remove any member of the
18 executive committee as provided in the compact commission's
19 bylaws.

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

21 (a) Executive committee meetings shall be open to the public,
22 except that the executive committee may meet in a closed,
23 nonpublic meeting as provided in this subsection.

24 (b) The executive committee shall give advance notice of its
25 meetings, posted on its internet site and as determined by rule
26 or bylaw to provide notice to persons with an interest in the
27 business of the compact commission.

28 (c) The executive committee may hold a special meeting in
29 accordance with this subsection.

30 e. The compact commission shall adopt and provide to the
31 member states an annual report.

32 f. Meetings of the compact commission.

33 (1) All meetings shall be open to the public, except that the
34 compact commission may meet in a closed, nonpublic meeting as
35 provided in this paragraph.

1 (2) Public notice for all meetings of the full compact
2 commission of meetings shall be given in the same manner as
3 required under the rulemaking provisions in this compact, except
4 that the compact commission may hold a special meeting as
5 provided in this paragraph.

6 (3) The compact commission may hold a special meeting when it
7 must meet to conduct emergency business by giving twenty-four
8 hours' notice to all commissioners, on the compact commission's
9 internet site, and other means as provided in the compact
10 commission's rules. The compact commission's legal counsel shall
11 certify that the compact commission's need to meet qualifies as
12 an emergency.

13 (4) The compact commission or the executive committee or
14 other committees of the compact commission may convene in a
15 closed, nonpublic meeting for the compact commission or executive
16 committee or other committees of the compact commission to
17 receive legal advice or to discuss any of the following:

18 (a) Noncompliance of a member state with its obligations
19 under the compact.

20 (b) The employment, compensation, discipline or other
21 matters, practices or procedures related to specific employees.

22 (c) Current or threatened discipline of a licensee by a
23 member state's licensing authority.

24 (d) Current, threatened, or reasonably anticipated
25 litigation.

26 (e) Negotiation of contracts for the purchase, lease, or sale
27 of goods, services, or real estate.

28 (f) Accusing any person of a crime or formally censuring any
29 person.

30 (g) Trade secrets or commercial or financial information that
31 is privileged or confidential.

32 (h) Information of a personal nature where disclosure would
33 constitute a clearly unwarranted invasion of personal privacy.

34 (i) Investigative records compiled for law enforcement
35 purposes.

1 (j) Information related to any investigative reports prepared
2 by or on behalf of or for use of the compact commission or other
3 committee charged with responsibility of investigation or
4 determination of compliance issues pursuant to the compact.

5 (k) Matters specifically exempted from disclosure by federal
6 or member state law.

7 (l) Other matters as specified in rules of the compact
8 commission.

9 (5) If a meeting, or portion of a meeting, is closed, the
10 compact commission's legal counsel or designee shall certify that
11 the meeting will be closed and reference each relevant exempting
12 provision, and such reference shall be recorded in the minutes.
13 All minutes and documents of a closed meeting shall remain under
14 seal, subject to release only by a majority vote of the compact
15 commission or order of a court of competent jurisdiction.

16 g. Financing of the compact commission.

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

20 (2) The compact commission may accept any and all appropriate
21 revenue sources as provided in this section.

22 (3) The compact commission may levy on and collect an annual
23 assessment from each member state and impose fees on licensees of
24 member states to whom it grants a compact privilege to cover the
25 cost of the operations and activities of the compact commission
26 and its staff, which must be in a total amount sufficient to
27 cover its annual budget as approved each year for which revenue
28 is not provided by other sources. The aggregate annual
29 assessment amount for member states shall be allocated based upon
30 a formula that the compact commission shall promulgate by rule.

31 (4) The compact commission shall not incur obligations of any
32 kind prior to securing the funds or a loan adequate to meet the
33 same; nor shall the compact commission pledge the credit of any
34 of the member states, except by and with the authority of the
35 member state.

1 (5) The compact commission shall keep accurate accounts of
2 all receipts and disbursements. The receipts and disbursements
3 of the compact commission shall be subject to the financial
4 review or audit and accounting procedures established under its
5 bylaws. However, all receipts and disbursements of funds handled
6 by the compact commission shall be subject to an annual financial
7 review or audit by a certified or licensed public accountant, and
8 the report of the financial review or audit shall be included in
9 and become part of the annual report of the compact commission.

10 h. Qualified immunity, defense, and indemnification.

11 (1) The members, officers, executive director, employees and
12 representatives of the compact commission shall be immune from
13 suit and liability, both personally and in their official
14 capacity, for any claim for damage to or loss of property or
15 personal injury or other civil liability caused by or arising out
16 of any actual or alleged act, error, or omission that occurred,
17 or that the person against whom the claim is made had a
18 reasonable basis for believing occurred within the scope of
19 compact commission employment, duties or responsibilities;
20 provided that nothing in this subparagraph shall be construed to
21 protect any such person from suit or liability for any damage,
22 loss, injury, or liability caused by the intentional or willful
23 or wanton misconduct of that person. The procurement of
24 insurance of any type by the compact commission shall not in any
25 way compromise or limit the immunity granted hereunder.

26 (2) The compact commission shall defend any member, officer,
27 executive director, employee, and representative of the compact
28 commission in any civil action seeking to impose liability
29 arising out of any actual or alleged act, error, or omission that
30 occurred within the scope of compact commission employment,
31 duties, or responsibilities, or as determined by the compact
32 commission that the person against whom the claim is made had a
33 reasonable basis for believing occurred within the scope of
34 compact commission employment, duties, or responsibilities;
35 provided that nothing herein shall be construed to prohibit that

1 person from retaining their own counsel at their own expense; and
2 provided further, that the actual or alleged act, error, or
3 omission did not result from that person's intentional or willful
4 or wanton misconduct.

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

16 (4) Nothing herein shall be construed as a limitation on the
17 liability of any licensee for professional malpractice or
18 misconduct, which shall be governed solely by any other
19 applicable state laws.

20 (5) Nothing in this compact shall be interpreted to waive or
21 otherwise abrogate a member state's state action immunity or
22 state action affirmative defense with respect to antitrust claims
23 under the Sherman Act, Clayton Act, or any other state or federal
24 antitrust or anticompetitive law or regulation.

25 (6) Nothing in this compact shall be construed to be a waiver
26 of sovereign immunity by the member states or by the compact
27 commission.

28 9. *Data system.*

29 a. The commission shall provide for the development,
30 maintenance, operation, and utilization of a coordinated data
31 system and reporting system containing licensure, compact
32 privileges, adverse action, and the presence of current
33 significant investigative information on all licensees and
34 applicants for a license in member states.

35 b. Notwithstanding any other provision of state law to the

1 contrary, a member state shall submit a uniform data set to the
2 data system on all licensees, applicants, and others to whom this
3 compact is applicable as required by the rules of the compact
4 commission, including all of the following:

5 (1) Personally identifying information.

6 (2) Licensure data.

7 (3) Adverse actions against a licensee, license applicant or
8 compact privilege and information related thereto.

9 (4) Nonconfidential information related to alternative
10 program participation, the beginning and ending dates of such
11 participation, and other information related to such
12 participation.

13 (5) Any denial of an application for licensure, and the
14 reason for such denial, excluding the reporting of any criminal
15 history record information where prohibited by law.

16 (6) A binary determination regarding the presence of current
17 significant investigative information.

18 (7) Other information that may facilitate the administration
19 of this compact or the protection of the public, as determined by
20 the rules of the commission.

21 c. The records and information provided to a member state
22 pursuant to this compact or through the data system, when
23 certified by the commission or an agent thereof, shall constitute
24 the authenticated business records of the commission, and shall
25 be entitled to any associated hearsay exception in any relevant
26 judicial, quasi-judicial or administrative proceedings in a
27 member state.

28 d. Current significant investigative information pertaining
29 to a licensee in any member state will only be available to other
30 member states.

31 e. It is the responsibility of the member states to monitor
32 the data system to determine whether adverse action has been
33 taken against a licensee or license applicant. Adverse action
34 information pertaining to a licensee or license applicant in any
35 member state will be available to any other member state.

1 *f.* Member states contributing information to the data system
2 may designate information that may not be shared with the public
3 without the express permission of the contributing state.

4 *g.* Any information submitted to the data system that is
5 subsequently expunged pursuant to federal law or the laws of the
6 member state contributing the information shall be removed from
7 the data system.

8 10. *Rulemaking.*

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

18 *b.* The rules of the compact commission shall have the force
19 of law in each member state, provided however that where the
20 rules conflict with the laws or regulations of a member state
21 that relate to the scope of practice a licensed athletic trainer
22 is permitted to undertake in that state and the circumstances
23 under which they may do so, as held by a court of competent
24 jurisdiction, the rules of the compact commission shall be
25 ineffective in that state to the extent of the conflict.

26 *c.* The compact commission shall exercise its rulemaking
27 powers pursuant to the criteria set forth in this subsection and
28 the rules adopted thereunder. Rules of this compact shall become
29 binding on the day following adoption or as of the date specified
30 in the rule or amendment, whichever is later.

31 *d.* If a majority of the legislatures of the member states
32 rejects a rule or portion of a rule, by enactment of a statute or
33 resolution in the same manner used to adopt the compact within
34 four years of the date of adoption of the rule, then such rule
35 shall have no further force and effect in any member state.

1 e. Rules shall be adopted at a regular or special meeting of
2 the compact commission.

3 f. Prior to adoption of a proposed rule, the compact
4 commission shall hold a public hearing and allow persons to
5 provide oral and written comments, data, facts, opinions, and
6 arguments. At least thirty days in advance of the public hearing
7 on the proposed rule, the compact commission shall provide a
8 notice of proposed rulemaking as follows:

9 (1) On the internet site of the compact commission or other
10 publicly accessible platform.

11 (2) To persons who have requested notice of the compact
12 commission's notices of proposed rulemaking.

13 (3) In such other ways as the compact commission may by rule
14 specify.

15 g. The notice of proposed rulemaking shall include all of the
16 following:

17 (1) The time, date, and location of the public hearing at
18 which the compact commission will hear public comments on the
19 proposed rule and, if different, the time, date, and location of
20 the meeting where the compact commission will consider and vote
21 on the proposed rule.

22 (2) If the hearing is held via telecommunication,
23 videoconference, or other electronic means, the compact
24 commission shall include the mechanism for access to the hearing
25 in the notice of proposed rulemaking.

26 (3) The text of the proposed rule and the reason therefor.

27 (4) A request for comments on the proposed rule from any
28 interested person.

29 (5) The manner in which interested persons may submit written
30 comments.

31 h. All hearings shall be recorded. A copy of the recording
32 and all written comments and documents received by the compact
33 commission in response to the proposed rule shall be available to
34 the public.

35 i. Nothing in this subsection shall be construed as requiring

1 a separate hearing on each rule. Rules may be grouped for the
2 convenience of the compact commission at hearings required by
3 this subsection.

4 j. The compact commission shall, by majority vote of all
5 members, take final action on the proposed rule based on the
6 rulemaking record and the full text of the rule.

7 (1) The compact commission may adopt changes to the proposed
8 rule provided the changes do not enlarge the original purpose of
9 the proposed rule.

10 (2) The compact commission shall provide an explanation of
11 the reasons for substantive changes made to the proposed rule as
12 well as reasons for substantive changes not made that were
13 recommended by commenters.

14 (3) The compact commission shall determine a reasonable
15 effective date for the rule. Except for an emergency as provided
16 in this subsection, the effective date of the rule shall be no
17 sooner than thirty days after issuing the notice that it adopted
18 or amended the rule.

19 k. Upon determination that an emergency exists, the compact
20 commission may consider and adopt an emergency rule with
21 twenty-four hours' notice, with opportunity to comment, provided
22 that the usual rulemaking procedures provided in the compact and
23 in this subsection shall be retroactively applied to the rule as
24 soon as reasonably possible, in no event later than ninety days
25 after the effective date of the rule. For the purposes of this
26 paragraph, an emergency rule is one that must be adopted
27 immediately in order to do any of the following:

28 (1) Meet an imminent threat to public health, safety, or
29 welfare.

30 (2) Prevent a loss of compact commission or member state
31 funds.

32 (3) Meet a deadline for the promulgation of a rule that is
33 established by federal law or rule.

34 (4) Protect public health and safety.

35 l. The compact commission or an authorized committee of the

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

14 m. No member state's rulemaking requirements shall apply
15 under this compact.

16 11. *Oversight, dispute resolution, and enforcement.*

17 a. Oversight.

18 (1) The executive and judicial branches of state government
19 in each member state shall enforce this compact and take all
20 actions necessary and appropriate to implement the compact.

21 (2) Except as otherwise provided in this compact, venue is
22 proper and judicial proceedings by or against the compact
23 commission shall be brought solely and exclusively in a court of
24 competent jurisdiction where the principal office of the compact
25 commission is located. The compact commission may waive venue
26 and jurisdictional defenses to the extent it adopts or consents
27 to participate in alternative dispute resolution proceedings.
28 Nothing herein shall affect or limit the selection or propriety
29 of venue in any action against a licensee for professional
30 malpractice, misconduct or any such similar matter.

31 (3) The compact commission shall be entitled to receive
32 service of process in any proceeding regarding the enforcement or
33 interpretation of the compact and shall have standing to
34 intervene in such a proceeding for all purposes. Failure to
35 provide the compact commission service of process shall render a

1 judgment or order void as to the compact commission, this
2 compact, or promulgated rules.

3 b. Default, technical assistance, and termination.

4 (1) If the compact commission determines that a member state
5 has defaulted in the performance of its obligations or
6 responsibilities under this compact or the promulgated rules, the
7 commission shall provide written notice to the defaulting state.
8 The notice of default shall describe the default, the proposed
9 means of curing the default, and any other action that the
10 compact commission may take, and shall offer training and
11 specific technical assistance regarding the default.

12 (2) The compact commission shall provide a copy of the notice
13 of default to the other member states.

14 c. If a state in default fails to cure the default, the
15 defaulting state may be terminated from the compact upon an
16 affirmative vote of a majority of the commissioners of the member
17 states, and all rights, privileges and benefits conferred on that
18 state by this compact may be terminated on the effective date of
19 termination. A cure of the default does not relieve the
20 offending state of obligations or liabilities incurred during the
21 period of default.

22 d. Termination of membership in the compact shall be imposed
23 only after all other means of securing compliance have been
24 exhausted. Notice of intent to suspend or terminate shall be
25 given by the compact commission to the governor, the majority and
26 minority leaders of the defaulting state's legislature, the
27 defaulting state's licensing authority and each of the member
28 states' licensing authority.

29 e. A state that has been terminated is responsible for all
30 assessments, obligations, and liabilities incurred through the
31 effective date of termination, including obligations that extend
32 beyond the effective date of termination.

33 f. Upon the termination of a state's membership from this
34 compact, that state shall immediately provide notice to all
35 licensees within that state of such termination. The terminated

1 state shall continue to recognize all licenses and compact
2 privileges granted pursuant to this compact for a minimum of one
3 hundred eighty days after the date of said notice of termination.

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

8 h. The defaulting state may appeal the action of the compact
9 commission by petitioning the United States district court for
10 the District of Columbia or the federal district where the
11 compact commission has its principal offices. The prevailing
12 party shall be awarded all costs of such litigation, including
13 reasonable attorney fees.

14 i. Dispute resolution.

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

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

22 j. Enforcement.

23 (1) By two-thirds majority vote, the compact commission may
24 initiate legal action against a member state in default in the
25 United States district court for the District of Columbia or the
26 federal district where the compact commission has its principal
27 offices to enforce compliance with the provisions of the compact
28 and its promulgated rules. The relief sought may include both
29 injunctive relief and damages. In the event judicial enforcement
30 is necessary, the prevailing party shall be awarded all costs of
31 such litigation, including reasonable attorney fees. The
32 remedies herein shall not be the exclusive remedies of the
33 compact commission. The compact commission may pursue any other
34 remedies available under federal or the defaulting member state's
35 law.

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

10 (3) No person other than a member state shall enforce this
11 compact against the compact commission.

12 12. *Effective date, withdrawal, and amendment.*

13 a. The compact shall come into effect on the date on which
14 the compact statute is enacted into law in the seventh member
15 state.

16 (1) On or after the effective date of the compact, the
17 compact commission shall convene and review the enactment of each
18 charter member state to determine if the statute enacted and made
19 effective by each such charter member state is materially
20 different than the model compact statute.

21 (a) A charter member state whose enactment is found to be
22 materially different from the model compact language shall be
23 entitled to the default process set forth in subsection 11.

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

29 (2) Member states enacting the compact subsequent to the
30 seven initial charter member states shall be subject to the
31 process set forth in this section to determine if their
32 enactments are materially different from the model compact
33 statute and whether they qualify for participation in the
34 compact.

35 (3) All actions taken for the benefit of the compact

1 commission or in furtherance of the purposes of the
2 administration of the compact prior to the effective date of the
3 compact or the compact commission coming into existence shall be
4 considered to be actions of the compact commission unless
5 specifically repudiated by the compact commission.

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

13 b. Any member state may withdraw from this compact by
14 enacting a statute repealing the same.

15 (1) A member state's withdrawal shall not take effect until
16 one hundred eighty days after enactment of the repealing statute.

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

21 (3) Upon the enactment of a statute withdrawing from this
22 compact, a state shall immediately provide notice of such
23 withdrawal to all licensees and privilege holders within that
24 state. Notwithstanding any subsequent statutory enactment to the
25 contrary, such withdrawing state shall continue to recognize all
26 compact privileges granted pursuant to this compact for a minimum
27 of one hundred eighty days after the date of such notice of
28 withdrawal.

29 (4) Nothing contained in this compact shall be construed to
30 invalidate or prevent any licensure agreement or other
31 cooperative arrangement between a member state and a nonmember
32 state that does not conflict with the provisions of this compact.

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

1 states.

2 13. *Construction and severability.*

3 a. This compact and the compact commission's rulemaking
4 authority shall be liberally construed so as to effectuate the
5 purposes, and the implementation and administration of the
6 compact. Provisions of the compact expressly authorizing or
7 requiring the promulgation of rules shall not be construed to
8 limit the compact commission's rulemaking authority solely for
9 those purposes.

10 b. The provisions of this compact shall be severable and if
11 any phrase, clause, sentence or provision of this compact is held
12 by a court of competent jurisdiction to be contrary to the
13 constitution of any member state, a state seeking participation
14 in the compact, or of the United States, or the applicability
15 thereof to any government, agency, person or circumstance is held
16 to be unconstitutional by a court of competent jurisdiction, the
17 validity of the remainder of this compact and the applicability
18 thereof to any other government, agency, person or circumstance
19 shall not be affected thereby.

20 c. Notwithstanding the foregoing, the compact commission may
21 deny a state's participation in the compact or terminate a member
22 state's participation in the compact if it determines that a
23 constitutional requirement of a member state is a material
24 departure from the compact. Otherwise, if this compact shall be
25 held to be contrary to the constitution of any member state, the
26 compact shall remain in full force and effect as to the remaining
27 member states and in full force and effect as to the member state
28 affected as to all severable matters.

29 14. *Consistent effect and conflict with other state laws.*

30 a. Nothing herein shall prevent or inhibit the enforcement of
31 any other law of a member state that is not inconsistent with the
32 compact.

33 b. Any laws, statutes, regulations, or other legal
34 requirements in a member state in conflict with the compact are
35 superseded to the extent of the conflict.

1 c. All permissible agreements between the compact commission
2 and the member states are binding in accordance with their terms.

3 EXPLANATION

4 The inclusion of this explanation does not constitute agreement with
5 the explanation's substance by the members of the general assembly.

6 This bill establishes the athletic trainer compact.

7 The compact establishes a system whereby an athletic trainer
8 licensed to practice in one participating state may practice in
9 another participating state under a compact privilege without
10 applying for a license in that state. The compact imposes
11 certain minimum requirements on the licensure of athletic
12 trainers in participating states.

13 The compact creates a commission to administer the operation
14 of the compact. The commission is an instrumentality of the
15 participating states. The compact includes provisions relating
16 to the establishment and membership of the commission; powers
17 of the commission; meetings and voting requirements of the
18 commission; commission bylaws and rules; commission committees;
19 commission finances; the establishment of a data system;
20 compacting state compliance; venue for judicial proceedings;
21 defense and indemnification; effective dates and amendments to
22 the compact; withdrawal, default, and expulsion; severability and
23 construction; and the binding effect of the compact and other
24 laws.

25 The compact becomes effective upon the adoption of the compact
26 by the seventh participating state.