

STATE OF NEW YORK

2123

2021-2022 Regular Sessions

IN SENATE

January 19, 2021

Introduced by Sen. RIVERA -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to adopting the solemn covenant of the states to award prizes for curing diseases interstate compact

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The public health law is amended by adding a new article
2 49-A to read as follows:

3 ARTICLE 49-A

4 SOLEMN COVENANT OF THE STATES TO AWARD PRIZES FOR CURING DISEASES

5 Section 4999. Definitions.

6 4999-a. Establishment of the commission; membership.

7 4999-b. Powers of the commission.

8 4999-c. Meetings and voting.

9 4999-d. Bylaws.

10 4999-e. Rules.

11 4999-f. Committees.

12 4999-g. Finance.

13 4999-h. Records.

14 4999-i. Compliance.

15 4999-h. Records.

16 4999-j. Venue.

17 4999-k. Qualified immunity, defense, and indemnification.

18 4999-l. Compacting states, effective date, and amendment.

19 4999-m. Withdrawal, default, and expulsion.

20 4999-n. Severability and construction.

21 4999-o. Binding effect of compact and other laws.

22 § 4999. Definitions. For purposes of this article:

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD00580-01-1

1 1. "Compacting state" means either of the following:

2 a. Any state that has enacted the compact and which has not withdrawn
3 or been suspended pursuant section forty-nine hundred ninety-nine-m of
4 this article;

5 b. The federal government in accordance with the commission's bylaws.

6 2. "Compact" means the solemn covenant of the states to award prizes
7 for curing diseases enacted in this article.

8 3. "Non-compacting state" means any state or the federal government,
9 if it is not at the time a compacting state.

10 4. "Public health expenses" means the amount of all costs paid by
11 taxpayers in a specified geographic area relating to a particular
12 disease.

13 5. "State" means any state, district, or territory of the United
14 States of America.

15 § 4999-a. Establishment of the commission; membership. 1. Upon the
16 enactment of the compact by six states, the compacting states shall
17 establish the Solemn Covenant of States Commission.

18 2. The commission is a body corporate and politic and an instrumental-
19 ity of each of the compacting states and is solely responsible for its
20 liabilities, except as otherwise specifically provided in the compact.

21 3. Each compacting state shall be represented by one member as
22 selected by the compacting state. Each compacting state shall determine
23 its member's qualifications and period of service and shall be responsi-
24 ble for any action to remove or suspend its member or to fill the
25 member's position if it becomes vacant. Nothing in the compact shall be
26 construed to affect a compacting state's authority regarding the quali-
27 fication, selection, or service of its own member.

28 § 4999-b. Powers of the commission. 1. To adopt bylaws and rules
29 pursuant to sections forty-nine hundred ninety-nine-d and forty-nine
30 hundred ninety-nine-c of this article, which shall have the force and
31 effect of law and shall be binding in the compacting states to the
32 extent and in the manner provided in the compact;

33 2. To receive and review in an expeditious manner treatments and ther-
34 apeutic protocols for the cure of disease submitted to the commission
35 and to award prizes for submissions that meet the commission's standards
36 for a successful cure treatment or therapeutic protocol;

37 3. To make widely available a cure treatment or therapeutic protocol
38 upon a prize winner claiming a prize and transferring any intellectual
39 property necessary for the manufacture and distribution of the cure in
40 accordance with subdivision three of section forty-nine hundred ninety-
41 nine-e of this article, including by arranging or contracting for the
42 manufacturing, production, or provision of any drug, serum, or other
43 substance, device, or process, provided that the commission does not
44 market the cure or conduct any other activity regarding the cure not
45 specifically authorized in the compact;

46 4. To establish a selling price for the cure, which shall be not more
47 than the expenses for the cure's manufacturing, distribution, licensing,
48 and any other necessary governmental requirements for compacting states,
49 or those expenses plus any royalty fees, for noncompacting states; the
50 price shall not include the expenses of any other activities;

51 5. In non-compacting states and foreign countries, to establish and
52 collect royalty fees imposed on manufacturers, producers, and providers
53 of any drug, serum, or other substance, device, or process used for a
54 cure treatment or therapeutic protocol, for which a prize is awarded;
55 royalty fees may be added to the sales price of the cure pursuant to
56 subdivision four of this section; provided that the royalty fees shall

1 cumulatively be not more than the estimated five-year savings in public
2 health expenses for that state or country, as calculated by actuaries
3 employed or contracted by the commission;

4 6. To do the following regarding the collected royalty fees:

5 a. Pay or reimburse expenses related to the payment of a prize, which
6 shall include employing or contracting actuaries to calculate annual
7 taxpayer savings amounts in compacting states in accordance with subdivi-
8 vision three of section forty-nine hundred ninety-nine-e of this arti-
9 cle, and payment of interest and other expenses related to a loan
10 obtained in accordance with subdivision three of section forty-nine
11 hundred ninety-nine-e of this article;

12 b. Annually disburse any amounts remaining after making payments or
13 reimbursements under paragraph a of this subdivision as refunds to
14 compacting states based on the per cent of the state's prize obligation
15 in relation to the total obligation amount of all compacting states;

16 7. To bring and prosecute legal proceedings or actions in its name as
17 the commission;

18 8. To issue subpoenas requiring the attendance and testimony of
19 witnesses and the production of evidence;

20 9. To establish and maintain offices;

21 10. To borrow, accept, or contract for personnel services, including
22 personnel services from employees of a compacting state;

23 11. To hire employees, professionals, or specialists, and elect or
24 appoint officers, and to fix their compensation, define their duties and
25 give them appropriate authority to carry out the purposes of the
26 compact, and determine their qualifications; and to establish the
27 commission's personnel policies and programs relating to, among other
28 things, conflicts of interest, rates of compensation, and qualifications
29 of personnel;

30 12. To accept any and all appropriate donations and grants of money,
31 equipment, supplies, materials, and services, and to receive, utilize,
32 and dispose of the same; provided that at all times the commission shall
33 strive to avoid any appearance of impropriety;

34 13. To lease, purchase, or accept appropriate gifts or donations of,
35 or otherwise to own, hold, improve, or use, any property, real,
36 personal, or mixed; provided, that at all times the commission shall
37 strive to avoid any appearance of impropriety;

38 14. To sell, convey, mortgage, pledge, lease, exchange, abandon, or
39 otherwise dispose of any property, real, personal, or mixed;

40 15. To monitor compacting states for compliance with the commission's
41 bylaws and rules;

42 16. To enforce compliance by compacting states with the commission's
43 bylaws and rules;

44 17. To provide for dispute resolution among compacting states or
45 between the commission and those who submit treatments and therapeutic
46 protocols for the cure of disease for consideration;

47 18. To establish a budget and make expenditures;

48 19. To borrow money;

49 20. To appoint committees, including management, legislative, and
50 advisory committees comprised of members, state legislators or their
51 representatives, medical professionals, and such other interested
52 persons as may be designated by the commission;

53 21. To establish annual membership dues for compacting states, which
54 shall be used for daily expenses of the commission and not for interest
55 or prize payments;

56 22. To adopt and use a corporate seal;

1 23. To perform such other functions as may be necessary or appropriate
2 to achieve the purposes of this article.

3 § 4999-c . Meetings and voting. 1. The commission shall meet and take
4 such actions as are consistent with the compact, bylaws, and rules.

5 2. A majority of the members of the commission shall constitute a
6 quorum necessary in order to conduct business or take actions at meet-
7 ings of the commission.

8 3. Each member of the commission shall have the right and power to
9 cast one vote regarding matters determined or actions to be taken by the
10 commission. Each member shall have the right and power to participate
11 in the business and affairs of the commission.

12 4. A member shall vote in person or by such other means as provided in
13 the commission's bylaws. The commission's bylaws may provide for
14 members' participation in meetings by telephone or other means of commu-
15 nication.

16 5. The commission shall meet at least once during each calendar year.
17 Additional meetings shall be held as set forth in the commission's
18 bylaws.

19 6. No decision of the commission with respect to the approval of an
20 award for a treatment or therapeutic process for the cure of a disease
21 shall be effective unless two-thirds of all the members of the commis-
22 sion vote in favor thereof.

23 7. Guidelines and voting requirements for all other decisions of the
24 commission shall be established in the commission's bylaws.

25 § 4999-d. Bylaws. The commission shall, by a majority vote of all the
26 members of the commission, prescribe bylaws to govern its conduct as may
27 be necessary or appropriate to carry out the purposes, and exercise the
28 powers, of the compact, including, but not limited to:

- 29 1. establishing the fiscal year of the commission;
30 2. providing reasonable procedures for appointing and electing
31 members, as well as holding meetings, of the management committee;
32 3. providing reasonable standards and procedures:
33 a. for the establishment and meetings of other committees;
34 b. governing any general or specific delegation of any authority or
35 function of the commission; and
36 c. voting guidelines and procedures for commission decisions.

37 4. providing reasonable procedures for calling and conducting meetings
38 of the commission that shall consist of requiring a quorum to be pres-
39 ent, ensuring reasonable advance notice of each such meeting and provid-
40 ing for the right of citizens to attend each such meeting with enumer-
41 ated exceptions designed to protect the public's interest and the
42 privacy of individuals.

43 5. providing a list of matters about which the commission may go into
44 executive session and requiring a majority of all members of the commis-
45 sion vote to enter into such session. As soon as practicable, the
46 commission shall make public:

- 47 a. a copy of the vote to go into executive session, revealing the vote
48 of each member with no proxy votes allowed; and
49 b. the matter requiring executive session, without identifying the
50 actual issues or individuals involved.

51 6. establishing the titles, duties, authority, and reasonable proce-
52 dures for the election of the officers of the commission;

53 7. providing reasonable standards and procedures for the establishment
54 of the personnel policies and programs of the commission. Notwithstand-
55 ing any civil service or other similar laws of any compacting state, the

1 commission's bylaws shall exclusively govern the personnel policies and
2 programs of the commission;

3 8. allowing a mechanism for:

4 a. the federal government to join as a compacting state; and

5 b. foreign countries or subdivisions of those countries to join as
6 liaison members by adopting the compact; provided that adopting coun-
7 tries or subdivisions shall not have voting power or the power to bind
8 the commission in any way.

9 9. adopting a code of ethics to address permissible and prohibited
10 activities of members and employees;

11 10. providing for the maintenance of the commission's books and
12 records;

13 11. governing the acceptance of and accounting for donations, annual
14 member dues, and other sources of funding and establishing the propor-
15 tion of these funds to be allocated to prize amounts for treatments and
16 therapeutic protocols that cure disease;

17 12. governing any fundraising efforts in which the commission wishes
18 to engage; and

19 13. providing a mechanism for winding up the operations of the commis-
20 sion and the equitable disposition of any surplus funds that may exist
21 after the termination of the compact after the payment and reserving of
22 all its debts and obligations.

23 § 4999-e. Rules. 1. The commission shall adopt rules to do the
24 following:

25 a. effectively and efficiently achieve the purposes of this article;

26 b. govern the methods, processes, and any other aspect of the
27 research, creation, and testing of a treatment or therapeutic protocol
28 for each disease for which a prize may be awarded.

29 2. The commission shall also adopt rules establishing the criteria for
30 defining and classifying the diseases for which prizes shall be awarded.
31 The commission may define and classify subsets of diseases, for example,
32 tubular carcinoma of the breast. For purposes of paragraphs a and c of
33 subdivision three of this section, a subset of a disease shall be
34 considered one disease. The commission may consult the most recent
35 edition of the international classification of disease as published by
36 the world health organization or other definitions agreed to by a two-
37 thirds vote of the commission.

38 3. The commission shall also adopt rules regarding prizes for curing
39 diseases that establish the following:

40 a. at least ten major diseases for which to create prizes, which shall
41 be determined based on the following factors:

42 i. the severity of the disease to a human individual's overall health
43 and well-being;

44 ii. the survival rate or severity of impact of the disease;

45 iii. the public health expenses and treatment expenses for the
46 disease.

47 b. the criteria a treatment or therapeutic protocol must meet in order
48 to be considered a cure for any of the diseases for which a prize may be
49 awarded, which shall include the following requirements:

50 i. it must be approved by the federal Food and Drug Administration or
51 have otherwise obtained legal status for the compact to immediately
52 contract to manufacture and distribute in the United States;

53 ii. Except as provided in subdivision four of this section, it must
54 yield a significant increase in survival with respect to the diseases if
55 early death is the usual outcome;

1 iii. It requires less than one year of the treatment or protocol to
2 completely cure the disease.

3 c. The procedure for determining the diseases for which to award
4 prizes, which includes the option to award prizes for more than ten
5 diseases that meet the above criteria, if agreed to by two-thirds vote
6 of the commission, and a requirement to update the list every three
7 years.

8 d. The submission and evaluation procedures and guidelines, including
9 filing and review procedures, a requirement that the person or entity
10 submitting the cure bears the burden of proof in demonstrating that the
11 treatment or therapeutic protocol meets the above criteria, and limita-
12 tions preventing public access to treatment or protocol submissions.

13 e. The estimated five-year public health savings that would result
14 from a cure, which shall be equal to the five-year public health
15 expenses for each disease in each compacting state, and a procedure to
16 update these expenses every three years in conjunction with the require-
17 ments in paragraph c of this subdivision. The estimated five-year public
18 health savings amount shall be calculated, estimated, and publicized
19 every three years by actuaries employed or contracted by the commission.

20 f. The prize amount with respect to cures for each disease, which
21 shall be equal to the most recent estimated total five-year savings in
22 public health expenses for the disease as calculated in paragraph e of
23 this subdivision in all of the compacting states; amounts donated by
24 charities, individuals, and any other entities intended for the prize
25 under this article; and any other factors that the commission deems
26 appropriate.

27 g. The prize distribution procedures and guidelines, which shall
28 include the following requirements:

29 i. Upon acceptance of a cure, the prize winner shall transfer to the
30 commission the patent and all related intellectual property for the
31 manufacture and distribution of the treatment or therapeutic protocol in
32 exchange for the prize, except in the case that the prize money is
33 considered by the commission to be too low, and that a prize will be
34 awarded only to the first person or entity that submits a successful
35 cure for a disease for which a prize may be awarded.

36 ii. Donation amounts intended for the prize shall be kept in a sepa-
37 rate, interest-bearing account maintained by the commission. This
38 account shall be the only account in which prize money is kept.

39 iii. Each compacting state shall have the responsibility to pay annu-
40 ally the compacting state's actual one-year savings in public health
41 expenses for the particular disease for which a cure has been accepted.
42 The compacting state shall make such an annual payment until it has
43 fulfilled its prize responsibility as established in paragraph f of this
44 subdivision. Each compacting state's payment responsibility begins one
45 year after the date the cure becomes widely available. The commission
46 shall employ or contract with actuaries to calculate each state's actual
47 one-year savings in public health expenses at the end of each year to
48 determine each state's responsibility for the succeeding year.

49 iv. Compacting states may meet prize responsibilities by any method
50 including the issuance of bonds or other obligations, with the principal
51 and interest of those bonds or obligations to be repaid only from reven-
52 ue derived from estimated public health expense savings from a cure to a
53 disease. If the compacting state does not make such revenue available to
54 repay some or all of the revenue bonds or obligations issued, the owners
55 or holders of those bonds or obligations have no right to have excises

1 or taxes levied to pay the principal or interest on them. The revenue
2 bonds and obligations are not a debt of the issuing compacting state.

3 v. A compacting state may issue bonds or other debt that are general
4 obligations, under which the full faith and credit, revenue, and taxing
5 power of the state is pledged to pay the principal and interest under
6 those obligations, only if authorized by the compacting state's consti-
7 tution or, if constitutional authorization is not required, by other law
8 of the compacting state.

9 vi. Upon acceptance of a cure, the commission shall obtain a loan from
10 a financial institution in an amount equal to the most recently calcu-
11 lated total estimated five-year public health expenses for the disease
12 in all compacting states, in accordance with paragraph f of this subdi-
13 vision. The commission reserves the right to continuously evaluate the
14 cure in the interim and rescind a prize offer if the commission finds
15 that the cure no longer meets the commission's criteria.

16 4. The commission may award a prize for a treatment or therapeutic
17 protocol that yields a survival rate that is less than what is estab-
18 lished in the cure criteria through at least five years after the treat-
19 ment or protocol has ended. In that case, the prize amount awarded for
20 that treatment or therapeutic protocol shall be reduced from the prize
21 amount originally determined by the commission for a cure for that
22 disease. The reduction shall be in proportion to the survival rate
23 yielded by that treatment or protocol as compared to the survival rate
24 established in the cure criteria.

25 5. The commission also shall adopt rules that do the following:

26 a. Establish the following regarding commission records:

27 i. conditions and procedures for public inspection and copying of its
28 information and official records, except such information and records
29 involving the privacy of individuals or would otherwise violate privacy
30 laws under federal law and the laws of the compacting states;

31 ii. procedures for sharing with federal and state agencies, including
32 law enforcement agencies, records and information otherwise exempt from
33 disclosure;

34 iii. guidelines for entering into agreements with federal and state
35 agencies to receive or exchange information or records subject to
36 nondisclosure and confidentiality provisions.

37 b. Provide a process for commission review of submitted treatments and
38 therapeutic protocols for curing diseases that includes the following:

39 i. an opportunity for an appeal, not later than thirty days after a
40 rejection of a treatment or protocol for prize consideration, to a
41 review panel established under the commission's dispute resolution proc-
42 ess;

43 ii. commission monitoring and review of treatment and protocol effec-
44 tiveness consistent with the cure criteria established by the commission
45 for the particular disease;

46 iii. commission reconsideration, modification, or withdrawal of
47 approval of a treatment or protocol for prize consideration for failure
48 to continue to meet the cure criteria established by the commission for
49 the particular disease.

50 c. Establish a dispute resolution process to resolve disputes or other
51 issues under the compact that may arise between two or more compacting
52 states or between the commission and individuals or entities who submit
53 treatments and therapeutic protocols to cure diseases, which process
54 shall provide for:

55 i. administrative review by a review panel appointed by the commis-
56 sion;

1 ii. judicial review of decisions issued after an administrative
2 review; and

3 iii. qualifications to be appointed to a panel, due process require-
4 ments, including notice and hearing procedures, and any other procedure,
5 requirement, or standard necessary to provide adequate dispute resol-
6 ution.

7 d. Establish and impose annual member dues on compacting states, which
8 shall be calculated based on the percentage of each compacting state's
9 population in relation to the population of all the compacting states.

10 6. Recognizing that the goal of the compact is to pool the potential
11 savings of as many states and countries as possible to generate suffi-
12 cient financial incentive to develop a cure for many of the world's most
13 devastating diseases, the compact will respect the laws of each of the
14 United States by adopting rules that establish ethical standards for
15 research that shall be followed in order for a prize to be claimed. The
16 compact, in the rules, shall establish a common set of ethical standards
17 that embodies the laws and restrictions in each of the states so that to
18 be eligible for claiming a prize the entity submitting a cure must not
19 have violated any of the ethical standards in any one of the fifty
20 states, whether the states have joined the compact or not. The compact
21 will publish these common ethical standards along with the specific
22 criteria for a cure for each of the diseases the compact has targeted.
23 So long as a researcher follows the common ethical standards in effect
24 at the time the research is done, an entity presenting a cure will be
25 deemed to have followed the standards. On or before January first of
26 each year, the compact shall review all state laws to determine if addi-
27 tional ethical standards have been enacted by any of the fifty states
28 and the federal government. Any changes to the common ethical standards
29 rules based on new state laws shall be adopted and published by the
30 compact, but shall not take effect in cure criteria for a period of
31 three years to allow for sufficient notice to researchers.

32 7. All rules may be amended as the commission sees necessary.

33 8. All rules shall be adopted pursuant to a rulemaking process that
34 conforms to the model state administrative procedure act of 1981 by the
35 uniform law commissioners, as amended, as may be appropriate to the
36 operations of the commission.

37 9. In the event the commission exercises its rulemaking authority in a
38 manner that is beyond the scope of the purpose of this article, or the
39 powers granted hereunder, then such rule shall be invalid and have no
40 force and effect.

41 § 4999-f. Committees. a. The commission may establish a management
42 committee comprised of not more than fourteen members when twenty-six
43 states enact the compact.

44 b. The committee shall consist of those members representing compact-
45 ing states whose total public health expenses of all of the established
46 diseases are the highest.

47 c. The committee shall have such authority and duties as may be set
48 forth in the commission's bylaws and rules, including:

49 i. managing authority over the day-to-day affairs of the commission in
50 a manner consistent with the commission's bylaws and rules and the
51 purposes of the compact;

52 ii. overseeing the offices of the commission; and

53 iii. planning, implementing, and coordinating communications and
54 activities with state, federal, and local government organizations in
55 order to advance the goals of the compact.

1 d. The commission annually shall elect officers for the committee,
2 with each having such authority and duties as may be specified in the
3 commission's bylaws and rules.

4 e. The management committee, subject to commission approval, may
5 appoint or retain an executive director for such period, upon such terms
6 and conditions, and for such compensation as the committee determines.
7 The executive director shall serve as secretary to the commission, but
8 shall not be a member of the commission. The executive director shall
9 hire and supervise such other staff as may be authorized by the commit-
10 tee.

11 2. The commission may appoint advisory committees to monitor all oper-
12 ations related to the purposes of the compact and make recommendations
13 to the commission; provided that the manner of selection and term of any
14 committee member shall be as set forth in the commission's bylaws and
15 rules. The commission shall consult with an advisory committee, to the
16 extent required by the commission's bylaws or rules, before doing any of
17 the following:

18 a. approving cure criteria;

19 b. amending, enacting, or repealing any bylaw or rule;

20 c. adopting the commission's annual budget;

21 d. addressing any other significant matter or taking any other signif-
22 icant action.

23 § 4999-g. Finance. 1. The commission annually shall establish a budg-
24 et to pay or provide for the payment of its reasonable expenses. To fund
25 the cost of initial operations, the commission may accept contributions
26 and other forms of funding from the compacting states and other sources.
27 Contributions and other forms of funding from other sources shall be of
28 such a nature that the independence of the commission concerning the
29 performance of its duties shall not be compromised.

30 2. The commission shall be exempt from all taxation in and by the
31 compacting states.

32 3. The commission shall keep complete and accurate accounts of all of
33 its internal receipts, including grants and donations, and disbursements
34 of all funds under its control. The internal financial accounts of the
35 commission shall be subject to the accounting procedures established
36 under the commission's bylaws or rules. The financial accounts and
37 reports including the system of internal controls and procedures of the
38 commission shall be audited annually by an independent certified public
39 accountant. Upon the determination of the commission, but not less
40 frequently than every three years, the review of the independent auditor
41 shall include a management and performance audit of the commission. The
42 commission shall make an annual report to the governors and legislatures
43 of the compacting states, which shall include a report of the independ-
44 ent audit. The commission's internal accounts shall not be confidential
45 and such materials may be shared with any compacting state upon request
46 provided, however, that any work papers related to any internal or inde-
47 pendent audit and any information subject to the compacting states'
48 privacy laws, shall remain confidential.

49 4. No compacting state shall have any claim or ownership of any prop-
50 erty held by or vested in the commission or to any commission funds held
51 pursuant to the provisions of the compact.

52 § 4999-h. Records. Except as to privileged records, data, and infor-
53 mation, the laws of any compacting state pertaining to confidentiality
54 or nondisclosure shall not relieve any member of the duty to disclose
55 any relevant records, data, or information to the commission; provided,
56 that disclosure to the commission shall not be deemed to waive or other-

1 wise affect any confidentiality requirement; and further provided, that,
2 except as otherwise expressly provided in the compact, the commission
3 shall not be subject to the compacting state's laws pertaining to confi-
4 dentiality and nondisclosure with respect to records, data, and informa-
5 tion in its possession. Confidential information of the commission shall
6 remain confidential after such information is provided to any member.
7 All cure submissions received by the commission are confidential.

8 § 4999-i. Compliance. The commission shall notify a compacting state
9 in writing of any noncompliance with commission bylaws and rules. If a
10 compacting state fails to remedy its noncompliance within the time spec-
11 ified in the notice, the compacting state shall be deemed to be in
12 default as set forth in section forty-nine hundred ninety-nine-m of this
13 article.

14 § 4999-j. Venue. Venue for any judicial proceedings by or against the
15 commission shall be brought in the appropriate court of competent juris-
16 isdiction for the geographical area in which the principal office of the
17 commission is located.

18 § 4999-k. Qualified immunity, defense, and indemnification. 1. The
19 members, officers, executive director, employees, and representatives of
20 the commission shall be immune from suit and liability, either
21 personally or in their official capacity, for any claim for damage to or
22 loss of property or personal injury or other civil liability caused by
23 or arising out of any actual or alleged act, error, or omission that
24 occurred, or that such person had a reasonable basis for believing
25 occurred within the scope of the person's commission employment, duties,
26 or responsibilities; provided, that nothing in this section shall be
27 construed to protect any such person from suit or liability for any
28 damage, loss, injury, or liability caused by the intentional or willful
29 and wanton misconduct of that person.

30 2. The commission shall defend any member, officer, executive direc-
31 tor, employee, or representative of the commission in any civil action
32 seeking to impose liability arising out of any actual or alleged act,
33 error, or omission that occurred within the scope of the person's
34 commission employment, duties, or responsibilities, or that such person
35 had a reasonable basis for believing occurred within the scope of
36 commission employment, duties, or responsibilities; provided, that noth-
37 ing in the compact or commission bylaws or rules shall be construed to
38 prohibit that person from retaining his or her own counsel; and provided
39 further, that the actual or alleged act, error, or omission did not
40 result from that person's intentional or willful and wanton misconduct.

41 3. The commission shall indemnify and hold harmless any member, offi-
42 cer, executive director, employee, or representative of the commission
43 for the amount of any settlement or judgment obtained against the person
44 arising out of any actual or alleged act, error, or omission that
45 occurred within the scope of the person's commission employment, duties,
46 or responsibilities, or that such person had a reasonable basis for
47 believing occurred within the scope of commission employment, duties, or
48 responsibilities; provided, that the actual or alleged act, error, or
49 omission, did not result from the intentional or willful and wanton
50 misconduct of that person.

51 § 4999-l. Compacting states, effective date, and amendment. 1. Any
52 state is eligible to become a compacting state.

53 2. The compact shall become effective and binding upon legislative
54 enactment of the compact into law by two compacting states; provided,
55 the commission shall only be established after six states become
56 compacting states. Thereafter, the compact shall become effective and

1 binding as to any other compacting state upon enactment of the compact
2 into law by that state.

3 3. Amendments to the compact may be proposed by the commission for
4 enactment by the compacting states. No amendment shall become effective
5 and binding until all compacting states enact the amendment into law.

6 4. If funding is requested or required, the legislative authority of
7 each compacting state shall be responsible for making the appropriations
8 it determines necessary to pay for the costs of the compact, including
9 annual member dues and prize distributions.

10 § 4999-m. Withdrawal, default, and expulsion. 1. a. Once effective,
11 the compact shall continue in force and remain binding upon each and
12 every compacting state; provided, that a compacting state may withdraw
13 from the compact by doing both of the following:

14 i. repealing the law enacting the compact in that state;

15 ii. notifying the commission in writing of the intent to withdraw on a
16 date that is both of the following:

17 A. at least three years after the date the notice is sent;

18 B. after the repeal takes effect.

19 b. The effective date of withdrawal is the date described in subpara-
20 graph ii of paragraph a of this subdivision.

21 c. The member representing the withdrawing state shall immediately
22 notify the management committee in writing upon the introduction of
23 legislation in that state repealing the compact. If a management commit-
24 tee has not been established, the member shall immediately notify the
25 commission.

26 d. The commission or management committee, as applicable, shall notify
27 the other compacting states of the introduction of such legislation
28 within ten days after its receipt of notice thereof.

29 e. The withdrawing state is responsible for all obligations, duties
30 and liabilities incurred through the effective date of withdrawal,
31 including any obligations, the performance of which extend beyond the
32 effective date of withdrawal. The commission's actions shall continue to
33 be effective and be given full force and effect in the withdrawing
34 state.

35 f. Reinstatement following a state's withdrawal shall become effective
36 upon the effective date of the subsequent enactment of the compact by
37 that state.

38 2. a. If the commission determines that any compacting state has at
39 any time defaulted in the performance of any of its obligations or
40 responsibilities under the compact or the commission's bylaws or rules,
41 then, after notice and hearing as set forth in the bylaws, all rights,
42 privileges, and benefits conferred by this article on the defaulting
43 state shall be suspended from the effective date of default as fixed by
44 the commission. The grounds for default include failure of a compacting
45 state to perform its obligations or responsibilities, and any other
46 grounds designated in commission rules. The commission shall immediately
47 notify the defaulting state in writing of the suspension pending cure of
48 the default. The commission shall stipulate the conditions and the time
49 period within which the defaulting state shall cure its default. If the
50 defaulting state fails to cure the default within the time period speci-
51 fied by the commission, the defaulting state shall be expelled from the
52 compact and all rights, privileges, and benefits conferred by the
53 compact shall be terminated from the effective date of the expulsion.
54 Any state that is expelled from the compact shall be liable for any cure
55 prize or prizes for three years after its removal. The commission shall
56 also take appropriate legal action to ensure that any compacting state

1 that withdraws from the compact remains liable for paying its responsi-
2 bility towards a prize for a cure that was accepted while the compacting
3 state was a member of the commission.

4 b. The expelled state must reenact the compact in order to become a
5 compacting state.

6 3. a. The compact dissolves effective upon the date of either of the
7 following:

8 i. the withdrawal or expulsion of a compacting state, which withdrawal
9 or expulsion reduces membership in the compact to one compacting state;

10 ii. the commission votes to dissolve the compact.

11 b. Upon the dissolution of the compact, the compact becomes null and
12 void and shall be of no further force or effect, and the business and
13 affairs of the commission shall be wound up and any surplus funds shall
14 be distributed in accordance with the commission's bylaws, provided,
15 that the commission shall pay all outstanding prizes awarded before the
16 dissolution of the compact, as well as any other outstanding debts and
17 obligations incurred during the existence of the compact. Any unawarded
18 funds donated to be a part of a prize shall be returned to the donor,
19 along with any interest earned on the amount.

20 § 4999-n. Severability and construction. 1. The provisions of the
21 compact shall be severable; and if any phrase, clause, sentence, or
22 provision is deemed unenforceable, the remaining provisions of the
23 compact shall be enforceable.

24 2. The provisions of the compact shall be liberally construed to
25 effectuate its purposes.

26 § 4999-o. Binding effect of compact and other laws. 1. Nothing herein
27 prevents the enforcement of any other law of a compacting state, except
28 as provided in paragraph b of subdivision two of this section.

29 2. a. All lawful actions of the commission, including all commission
30 rules, are binding upon the compacting states.

31 b. All agreements between the commission and the compacting states are
32 binding in accordance with their terms.

33 c. Except to the extent authorized by the compacting state's constitu-
34 tion or, if constitutional authorization is not required, by other law
35 of the compacting state, such state, by entering into the compact does
36 not:

37 i. commit the full faith and credit or taxing power of the compacting
38 state for the payment of prizes or other obligations under the compact;

39 ii. make prize payment responsibilities or other obligations under the
40 compact a debt of the compacting state.

41 d. Upon the request of a party to a conflict over the meaning or
42 interpretation of commission actions, and upon a majority vote of the
43 compacting states, the commission may issue advisory opinions regarding
44 the meaning or interpretation in dispute.

45 e. In the event any provision of the compact exceeds the constitu-
46 tional limits imposed on any compacting state, the obligations, duties,
47 powers or jurisdiction sought to be conferred by that provision upon the
48 commission shall be ineffective as to that compacting state, and those
49 obligations, duties, powers, or jurisdiction shall remain in the
50 compacting state and shall be exercised by the agency thereof to which
51 those obligations, duties, powers, or jurisdiction are delegated by law
52 in effect at the time the compact becomes effective.

53 § 2. This act shall take effect immediately.