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SPOTLIGHT CLE: COLLEGIATE SPORTS LEGAL ISSUES

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THE PRESENTERS



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Role of Compliance

Educate:

- **Educate** student-athletes, coaches, staff, donors/supporters, parents, local merchants, alumni and former players in order to avoid NCAA rules violations.



Interpretations:

- Provide coaches, staff, student-athletes, donors/supporters **interpretations** of how NCAA/SEC rules should properly apply in order to avoid NCAA/SEC rules violations; provide coaches/staff with permissible alternative ways of accomplishing their goals.



Monitor:

- Collect and review information from coaches, student-athletes and staff to **monitor** adherence to NCAA/SEC rules and report all violations of NCAA/SEC rules.



Waivers:

- Research, write, and submit **waiver** requests to the NCAA/SEC that would allow us to do something that otherwise would be in violation of NCAA/SEC rules.



Investigate:

- **Investigate** possible violations of NCAA rules and report to the NCAA/SEC all confirmed violations; declare involved student-athletes/recruits ineligible and seek reinstatement through the NCAA.



NCAA & SEC Expectations for Institutional Control



NCAA & SEC Expectations for Institutional Control:

- Constitution 2.1: "Institutional Control"
 - It is the responsibility of each member institution to **control** its intercollegiate athletics program in compliance with the rules and regulations of the Association. The institution's president or chancellor is responsible for the administration of all aspects of the athletics program, including approval of the budget and audit of all expenditures.



NCAA & SEC Expectations for Institutional Control:

- Constitution 6.1.1: "President or Chancellor"
 - A member institution's president or chancellor has ultimate responsibility and final authority for the conduct of the intercollegiate athletics program and the actions of any board in control of that program. The term "president or chancellor" refers to the individual with primary executive authority for an institution and does not include an individual who has executive responsibility over a system of institutions.



Enforcement Process



Enforcement Process

- Level 1, 11, 111 violations.
- Development/Investigations.
- Investigation/Processing.



NCAA Recruiting Rules



Definition of a Prospective Student-Athlete:

– A prospective student-athlete is a student who has started classes for the ninth grade. In addition, a student who has not started classes for the ninth grade becomes a prospective student-athlete if the institution provides such an individual (or the individual's relatives or friends) any financial assistance or other benefits that the institution does not provide to prospective students generally.



- An individual remains a prospective student-athlete until one of the following occurs (whichever is earlier):
 - (a) The individual officially registers and enrolls in a minimum full-time program of studies and attends classes in any term of a four-year collegiate institution's regular academic year (excluding summer);
 - (b) The individual participates in a regular squad practice or competition at a four-year collegiate institution that occurs before the beginning of any term;



- (c) The individual officially registers, enrolls and attends classes during the certifying institution's summer term prior to his or her initial full-time enrollment at the certifying institution;
- or
- (d) The individual reports to an institutional orientation session that is open to all incoming students within 14 calendar days prior to the opening day of classes of a regular academic year term.



Definition of Prospective Student-Athlete in Men's Basketball:

- Any individual who has started classes for the seventh grade is considered a prospect.



Agent Issues

- Uniform Athlete Agent Law.
- NCAA Rules regarding Agents.
- Professional Players Association Rules regarding Agents.



Agent Issues continued...

Cases (See Attachment for more information):

- Georgia-based sports agent Terry Watson pleaded guilty in April to 13 felony charges related to the 2010 UNC football scandal.
- Former UNC athlete Christopher Hawkins has been accused of helping funnel money to Tar Heel football players back in 2010 and will go to trial in November. Hawkins pleaded not guilty to four charges May 15, 2017 – including athlete-agent inducement.



QUESTIONS?

I. TERRY WATSON

A former NFL agent, Terry Watson, has pleaded guilty to violating North Carolina's sports agent law¹ (specifically, the Uniform Athlete Agents Act, N.C.G.S. §78C-85)². The former Georgia sports agent provided three former UNC football players thousands of dollars of improper benefits.³ Watson accepted a plea deal in April 2017; he must undergo a thirty-month probation, complete community service and, in addition, pay a \$5,000 fine.⁴ The first twelve months of his probation will be supervised. The following eighteen months will be unsupervised if Watson does not violate his parole.⁵ Watson was charged with thirteen counts of athlete-agent inducement and one count of felony obstruction of justice.⁶ He provided roughly \$24,000 in cash and travel accommodations to future NFL players Robert Quinn, Marvin Austin, and Greg Little.⁷ The felony obstruction of justice charge was dismissed in the plea deal.

II. CHRISTOPHER HAWKINS

Christopher Hawkins, a former UNC football player, was arrested and charged with acting as an agent. He was accused of violating North Carolina's Student Athlete Agent law ("Act")⁸ that prohibits agents from enticing college athletes into contracts. The law prohibits agents from providing college athletes money, gifts or other items of value. Additionally, it requires agents to register with the state before representing student-athletes.⁹ Hawkins was charged with four counts of

¹ Associated Press, "Ex-NFL agent Terry Watson pleads guilty to giving cash to 3 former UNC players," ESPN (Apr. 17, 2017) available at http://www.espn.com/college-football/story/_/id/19180813/ex-nfl-agent-pleads-guilty-multi-year-north-carolina-tar-heels-sports-agent-probe.

² See N.C.G.S. §78C-85.

³ Associated Press, *supra* note 1.

⁴ Aaron Redus and Jamie Gawltney, "Former Georgia sports agent pleads guilty to charges in UNC case," *dailytarheel.com* (Apr. 19, 2017 12:22 A.M.) available at <http://www.dailytarheel.com/article/2017/04/former-georgia-sports-agent-pleads-guilty-to-charges-in-unc-case>.

⁵ *Id.*

⁶ Brooke Pryor, "Sports agent Terry Watson indicted related to UNC athlete-agent case," *dailytarheel.com* (Oct. 09, 2013 10:30 A.M.) available at <http://www.dailytarheel.com/article/2013/10/second-indictment-in-related-to-unc-athlete-agent-case>.

⁷ Associated Press, *supra* note 1.

⁸ See *supra* note 2.

violation of the Act, of which two are felonies.¹⁰ Hawkins is accused of giving more than \$13,000 to Robert Quinn, a former defensive end for the Tar Heels.¹¹ In addition, Hawkins is accused of aiding Quinn in selling game-used equipment for \$1,700.¹² Hawkins was one of five charged, and he was banned from school athletics and facilities in 2010.¹³ Assistant District Attorney Jeff Nieman "told WCHL Hawkins will now have a first appearance in Superior Court at an undetermined date."¹⁴

⁹ Blake Hodge, "Former UNC Defensive Back Indicted on Athlete-Agent Inducement Charges," WCHL (Aug. 31, 2015) available at <http://chapelboro.com/featured/former-unc-defensive-back-indicted-on-athlete-agent-inducement-charges>.

¹⁰ Durham Herald-Sun, "Ex-UNC player gets new court date," Times-News (Dec. 16, 2015 6:42 P.M.) available at <http://www.thetimesnews.com/article/20151216/NEWS/151219266>.

¹¹ Blake Hodge, "Former UNC Player Charged with Violating Sports Agent Law," WCHL (May 12, 2015) available at <http://chapelboro.com/news/crime/former-unc-player-charged-with-violating-sports-agent-law>.

¹² *Id.*

¹³ Hodge, *supra* note 9.

¹⁴ *Id.*

NEED FOR AND BENEFITS OF THE UNIFORM ATHLETE AGENTS ACT (UAAA)

Reprinted from <http://www.ncaa.org/enforcement/agents-and-amateurism/need-and-benefits-uniform-athlete-agents-act-uaaa>

As the National Conference of Commissioners on Uniform State Laws (NCCUSL) drafting committee sought to create legislation that would effectively regulate agents, it first needed to identify the problems. These problems exist in two significant areas.

1. Many athlete agents are not readily identified to the student-athlete. These unscrupulous individuals include prospective agents who are willing to use any means necessary to ensnare a student-athlete who has even a slight possibility of a professional career. The significant damage caused by impermissible and illegal inducements to student-athletes requires sensible legislation to provide protections for student-athletes and the institutions they attend. There is a real need to have access to information about the individuals who become involved with our student-athletes and to provide strong criminal, civil and administrative penalties along with the tools to ensure that law enforcement can adequately enforce the act.

In achieving this goal, the Uniform Athlete Agents Act (UAAA) contains a number of important provisions. The UAAA requires an agent to provide important information, both professional and criminal in nature. This information enables student-athletes, their parents and family, and university personnel to better evaluate the prospective agent. The UAAA also requires that written notice be provided to institutions when a student-athlete signs an agency contract before their eligibility expires. In addition, the UAAA gives authority to the Secretary of State to issue subpoenas that would enable the state to obtain relevant material that ensures compliance with the act. Finally, the UAAA provides for criminal, civil and administrative penalties with enforcement at the state level.

2. Lack of Uniformity of Current State Statutes. None of the solutions listed above can be effectively addressed if agents fail to register with the state. This leads us to the second problem. Since 1981 (and before the state enactments of the UAAA in 2001), at least twenty-eight states had statutes regulating athlete agents. These statutes were vague and varied considerably from state to state. This lack of uniformity clearly has had an impact on the number of agents registering with the states. For example, because of the inconsistencies among current state statutes and the lack of provisions for reciprocal registration and reasonable fee structures, an agent intending to do business in a large number of states may be forced to comply with numerous sets of registration requirements, regulatory schemes and initial registration fees.

The UAAA allows an agent's valid certificate of registration from one state to be honored in all other states that have adopted the act. The success of the reciprocal registration process is contingent on states establishing a reasonable fee schedule, including lower registration fees for reciprocal applications and renewals. Thus, more agents are likely to register due to the efficiency of this process, its practical cost saving implications for the agent and the benefits of complying with a single set of regulations.

Other Benefits of the UAAA

1. **Protection for Student-Athletes.** One of the most important benefits of the UAAA is the protection it affords for student-athletes. Some of the protections contained include prohibiting agents from giving false or misleading information or promises with the intent to induce a student-athlete into signing an agent contract. In addition, agents are prohibited from furnishing anything of value to a student-athlete before signing a contract. Further, an agent may not intentionally initiate contact with a student-athlete unless they are registered under the act. Also, for those student-athletes who do enter into a contract with an agent before their athletics eligibility expires, the act provides a student-athlete with the right to cancel the contract within fourteen days. Finally, the contract must contain a notification to the student-athlete informing them that signing a contract may make the student-athlete ineligible for intercollegiate competition.
2. **Protection for NCAA Member Institutions.** The UAAA requires the agent and student-athlete to notify the institution within seventy-two hours of the signing of a contract, or before the student-athlete's next scheduled athletics event, whichever occurs first. If a prospective student-athlete has signed a contract, the agent must notify the institution where the agent has reasonable grounds to believe the prospect will enroll. Finally, the act provides institutions with a right of action against the agent or former student-athlete for any damages caused by a violation of this act.

THE UNIFORM ATHLETE AGENTS ACT

I. KENTUCKY ADOPTION OF UNIFORM ATHLETE AGENTS ACT

A. 164.6903 Definitions for KRS 164.6901 to 164.6935.

As used in KRS 164.6901 to 164.6935, unless the context requires otherwise:

(1) "Agency contract" means an agreement in which a student-athlete authorizes a person to negotiate or solicit on behalf of the student-athlete a professional-sports-services contract or an endorsement contract;

(2) "Athlete agent" means an individual who enters into an agency contract with a student-athlete or, directly or indirectly, recruits or solicits a student-athlete to enter into an agency contract. The term includes an individual who represents to the public that the individual is an athlete agent. The term does not include a spouse, parent, sibling, grandparent, or guardian of the student-athlete or an individual acting solely on behalf of a professional sports team or professional sports organization;

(3) "Athletic director" means an individual responsible for administering the overall athletic program of an educational institution or, if an educational institution has separately administered athletic programs for male and female students, the athletic program for males or the athletic program for females, as appropriate;

(4) "Contact" means a communication, direct or indirect, between an athlete agent and a student-athlete, to recruit or solicit the student-athlete to enter into an agency contract;

(5) "Office" means the Office of Occupations and Professions in the Public Protection Cabinet;

(6) "Endorsement contract" means an agreement under which a student-athlete is employed or receives consideration to use on behalf of the other party any value that the student-athlete may have because of publicity, reputation, following, or fame obtained because of athletic ability or performance;

(7) "Intercollegiate sport" means a sport played at the collegiate level for which eligibility requirements for participation by a student-athlete are established by a national association for the promotion or regulation of collegiate athletics;

(8) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, or government; governmental subdivision, agency, or instrumentality; public corporation, or any other legal or commercial entity;

(9) "Professional-sports-services contract" means an agreement under which an individual is employed, or agrees to render services, as a player on a professional sports team, with a professional sports organization, or as a professional athlete;

(10) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

(11) "Registration" means registration as an athlete agent pursuant to KRS 164.6901 to 164.6935;

(12) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States; and

(13) "Student-athlete" means an individual who engages in, is eligible to engage in, or may be eligible in the future to engage in, any intercollegiate sport. If an individual is permanently ineligible to participate in a particular intercollegiate sport, the individual is not a student-athlete for purposes of that sport.

B. 164.6905 Role of Office of Occupations and Professions.

(1) By acting as an athlete agent in this state, a nonresident individual appoints the Office of Occupations and Professions as the individual's agent for service of process in any civil action in this state related to the individual's acting as an athlete agent in this state.

(2) The office may issue subpoenas for any material that is relevant to the administration of KRS 164.6901 to 164.6935.

(3) The office may promulgate administrative regulations in accordance with KRS Chapter 13A that are necessary to carry out the provisions of KRS 164.6901 to 164.6935.

C. 164.6907 Certificate of registration required.

(1) Except as otherwise provided in subsection (2) of this section, an individual may not act as an athlete agent in this state without holding a certificate of registration under KRS 164.6911 to 164.6913(3).

(2) Before being issued a certificate of registration, an individual may act as an athlete agent in this state for all purposes except signing an agency contract, if:

(a) A student-athlete or another person acting on behalf of the student-athlete initiates communication with the individual; and

(b) Within seven (7) days after an initial act as an athlete agent, the individual submits an application for registration as an athlete agent in this state.

(3) An agency contract resulting from conduct in violation of this section is void, and the athlete agent shall return any consideration received under contract.

D. 164.6909 Contents of application – Certificate from other state.

(1) An applicant for registration shall submit an application for registration to the office in a form prescribed by the office. An application filed under this section is a public record. The application must be in the name of an individual, and except as otherwise provided in subsection (2) of this section, signed or otherwise authenticated by the applicant under penalty of perjury and state or contain:

(a) The name of the applicant and the address of the applicant's principal place of business;

(b) The name of the applicant's business or employer, if applicable;

(c) Any business or occupation engaged in by the applicant for the five (5) years next preceding the date of submission of this application;

(d) A description of the applicant's:

1. Formal training as an athlete;
2. Practical experience as an athlete agent; and
3. Educational background relating to the applicant's activities as an athlete agent;

(e) The names and addresses of three (3) individuals not related to the applicant who are willing to serve as references;

(f) The name, sport, and last known team for each individual for whom the applicant acted as an athlete agent during the five (5) years next preceding the date of submission of the application;

(g) The names and addresses of all persons who are:

1. With respect to the athlete agent's business if it is not a corporation, the partners, members, officers, managers, associates, or profit-sharers of the business; and

2. With respect to a corporation employing the athlete agent, the officers, directors, and any shareholder of the corporation having an interest of five percent (5%) or greater;

(h) Whether the applicant or any person named pursuant to paragraph (g) of this subsection has been convicted of a crime that, if committed in this state, would be a crime involving moral turpitude or a felony, and identify the crime;

(i) Whether there has been any administrative or judicial determination that the applicant or any person named pursuant to paragraph (g) of this subsection has made a false, misleading, deceptive, or fraudulent representation;

(j) Any instance in which the conduct of the applicant or any person named pursuant to paragraph (g) of this subsection resulted in the imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event on a student-athlete or educational institution;

(k) Any sanction, suspension, or disciplinary action taken against the applicant or any person named pursuant to paragraph (g) of this subsection arising out of occupational or professional conduct; and

(l) Whether there has been any denial of an application for, suspension or revocation of, or refusal to renew, the registration or licensure of the applicant or any person named pursuant to paragraph (g) of this subsection as an athlete agent in any state.

(2) An individual who has submitted an application for, and holds a certificate of, registration or licensure as an athlete agent in another state, may submit a copy of the application and certificate in lieu of submitting an application in the form prescribed pursuant to subsection (1) of this section. The office shall accept the application and the certificate from the other state as an application for registration in this state if the application to the other state:

(a) Was submitted in the other state within six (6) months next preceding the submission of the application in this state and the applicant certifies that the information contained in the application is current;

(b) Contains information substantially similar to or more comprehensive than that required in an application submitted in this state; and

(c) Was signed by the applicant under penalty of perjury.

E. 164.6911 Office may refuse to issue certificate – Renewal of registration.

(1) Except as otherwise provided in subsection (2) of this section, the office shall issue a certificate of registration to an individual who complies with KRS 164.6909(1) or whose application has been accepted under KRS 164.6909(2).

(2) The office may refuse to issue a certificate of registration if the office determines that the applicant has engaged in conduct that has a significant adverse effect on the applicant's fitness to act as an athlete agent. In making the determination, the office may consider whether the applicant has:

(a) Been convicted of a crime that, if committed in this state, would be a crime involving moral turpitude or a felony;

(b) Made a materially false, misleading, deceptive, or fraudulent representation in the application or as an athlete agent;

(c) Engaged in conduct that would disqualify the applicant from serving in a fiduciary capacity;

(d) Engaged in conduct prohibited by KRS 164.6925;

(e) Had a registration or licensure as an athlete agent suspended, revoked, or denied, or been refused renewal of registration or licensure as an athlete agent in any state;

(f) Engaged in conduct the consequence of which was that a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event was imposed on a student-athlete or educational institution; or

(g) Engaged in conduct that significantly adversely reflects on the applicant's credibility, honesty, or integrity.

(3) In making a determination under subsection (2) of this section, the office shall consider:

(a) How recently the conduct occurred;

(b) The nature of the conduct and the context in which it occurred; and

(c) Any other relevant conduct of the applicant.

(4) An athlete agent may apply to renew a registration by submitting an application for renewal in a form prescribed by the office. An application filed under this section is a public record. The application for renewal must be signed by the applicant under penalty of perjury and must

contain current information on all matters required in an original registration.

(5) An individual who has submitted an application for renewal of registration or licensure in another state, in lieu of submitting an application for renewal in the form prescribed pursuant to subsection (4) of this section, may file a copy of the application for renewal and a valid certificate of registration or licensure from the other state. The office shall accept the application for renewal from the other state as an application for renewal in this state if the application to the other state:

(a) Was submitted in the other state within six (6) months next preceding the filing in this state and the applicant certifies the information contained in the application for renewal is current;

(b) Contains information substantially similar to or more comprehensive than that required in an application for renewal submitted in this state; and

(c) Was signed by the applicant under penalty of perjury.

(6) A certificate of registration or a renewal of registration is valid for one (1) year.

F. 164.6913 Suspension, revocation, or nonrenewal of certificate – Temporary certificate.

(1) The office may suspend, revoke, or refuse to renew a registration for conduct that would have justified denial of registration under KRS 164.6911(2).

(2) The office may deny, suspend, revoke, or refuse to renew a certificate of registration or licensure only after proper notice and an opportunity for a hearing in accordance with KRS Chapter 13B.

(3) The office may issue a temporary certificate of registration while an application for registration or renewal of registration is pending.

G. 164.6915 Fees.

An application for registration or renewal of registration must be accompanied by a fee in the following amount:

(1) An initial application for registration fee determined by the office, not to exceed three hundred dollars (\$300);

(2) An annual renewal fee determined by the office, not to exceed three hundred dollars (\$300); or

(3) An application for registration fee based upon certification of registration or licensure issued by another state determined by the office, not to exceed two hundred fifty dollars (\$250).

H. 164.6917 Requirements for agency contract.

(1) An agency contract must be in a record, signed or otherwise authenticated by the parties.

(2) An agency contract must state or contain:

(a) The amount and method of calculating the consideration to be paid by the student-athlete for services to be provided by the athlete agent under the contract and any other consideration the athlete agent has received or may receive from any other source for entering into the contract or for providing the services;

(b) The name of any person not listed in the application for registration or renewal of registration who will be compensated because the student-athlete signed the agency contract;

(c) A description of any expenses that the student-athlete agrees to reimburse;

(d) A description of the services to be provided to the student-athlete;

(e) The duration of the contract; and

(f) The date of execution.

(3) An agency contract must contain, in close proximity to the signature of the student-athlete, a conspicuous notice in boldface type in capital letters stating:

WARNING TO STUDENT-ATHLETE

IF YOU SIGN THIS CONTRACT:

(1) **YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT-ATHLETE IN YOUR SPORT;**

(2) **IF YOU HAVE AN ATHLETIC DIRECTOR, BOTH YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR WITHIN 72 HOURS AFTER ENTERING INTO THIS CONTRACT; AND**

(3) **YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.**

(4) An agency contract that does not conform to this section is voidable by the student-athlete. If a student-athlete voids an agency contract, the student-athlete is not required to pay any consideration under the contract or to return any consideration received from the athlete agent to induce the student-athlete to enter into the contract.

(5) The athlete agent shall give a record of the signed or otherwise authenticated agency contract to the student-athlete at the time of execution.

I. 164.6919 Notice to athletic director.

(1) Within seventy-two (72) hours after entering into an agency contract or before the next scheduled athletic event in which the student-athlete may participate, whichever occurs first, the athlete agent shall give notice in a record of the existence of the contract to the athletic director of the educational institution at which the student-athlete is enrolled or the athlete agent has reasonable grounds to believe the student-athlete intends to enroll.

(2) Within seventy-two (72) hours after entering into an agency contract or before the next athletic event in which the student-athlete may participate, whichever occurs first, the student-athlete shall inform the athletic director of the educational institution at which the student-athlete is enrolled that he or she has entered into an agency contract.

J. 164.6921 Cancellation of agency contract by student-athlete.

(1) A student-athlete may cancel an agency contract by giving notice of the cancellation to the athlete agent in a record within fourteen (14) days after the contract is signed.

(2) A student-athlete may not waive the right to cancel an agency contract.

(3) If a student-athlete cancels an agency contract, the student-athlete is not required to pay any consideration under the contract or to return any consideration received from the athlete agent to induce the student-athlete to enter into the contract.

K. 164.6923 Records to be retained by athlete agent.

(1) An athlete agent shall retain the following records for a period of five (5) years:

(a) The name and address of each individual represented by the athlete agent;

(b) Any agency contract entered into by the athlete agent; and

(c) Any direct costs incurred by the athlete agent in the recruitment or solicitation of a student-athlete to enter into an agency contract.

(2) Records required to be retained in subsection (1) of this section are open to inspection by the office during normal business hours.

L. 164.6925 Prohibited acts.

(1) An athlete agent, with the intent to induce a student-athlete to enter into an agency contract, may not:

(a) Give any materially false or misleading information or make a materially false promise or representation;

(b) Furnish anything of value to a student-athlete before the student-athlete enters into the agency contract; or

(c) Furnish anything of value to any individual other than the student-athlete or another registered athlete agent.

(2) An athlete agent shall not intentionally:

(a) Initiate contact with a student-athlete unless registered under KRS 164.6901 to 164.6935;

(b) Refuse or fail to retain or permit inspection of the records required to be retained by KRS 164.6923;

(c) Fail to register when required by KRS 164.6907;

(d) Provide materially false or misleading information in an application for registration or renewal of registration;

(e) Predate or postdate an agency contract; or

(f) Fail to notify a student-athlete before the student-athlete signs or otherwise authenticates an agency contract for a particular sport that the signing or authentication may make the student-athlete ineligible to participate as a student-athlete in that sport.

M. 164.6927 Penalties.

(1) Any person who engages in the business of an athlete agent or represents himself or herself as an athlete agent without being registered in accordance with KRS 164.6901 to 164.6935 shall be guilty of a Class A misdemeanor.

(2) Any registered athlete agent who knowingly and willfully commits a prohibited act contained in KRS 164.6925 shall be guilty of a Class D felony.

(3) Any registered athlete agent who knowingly and willfully violates any provision of KRS 164.6917 shall be guilty of a Class D felony.

(4) A student athlete who knowingly and willfully violates any provision of KRS 164.6919 shall be guilty of a Class A misdemeanor.

(5) Any registered athlete agent or athlete who fails to make restitution to a college or university that prevails in a suit brought under KRS 164.6929 shall be guilty of a Class D felony.

N. 164.6929 Right of action of educational institution for damages caused by violation of KRS 164.6901 to 164.6935.

(1) An educational institution has a right of action against an athlete agent or a former student-athlete for damages caused by a violation of KRS 164.6901 to 164.6935. In an action under this section, the court may award to the prevailing party costs and reasonable attorney's fees.

(2) Damages of an educational institution under subsection (1) of this section include losses and expenses incurred because, as a result of the conduct of an athlete agent or former student-athlete, the educational institution was injured by a violation of KRS 164.6901 to 164.6935 or was penalized, disqualified, or suspended from participation in athletics by a national association for the promotion and regulation of athletics, by an athletic conference, or by reasonable self-imposed disciplinary action taken to mitigate sanctions likely to be imposed by such an organization.

(3) A right of action under this section does not accrue until the educational institution discovers or by the exercise of reasonable diligence would have discovered the violation by the athlete agent or former student-athlete.

(4) Any liability of the athlete agent or the former student-athlete under this section is several and not joint.

(5) The office may assess a civil penalty against an athlete agent not to exceed twenty-five thousand dollars (\$25,000) for a violation of KRS 164.6901 to 164.6935.

(6) KRS 164.6901 to 164.6935 does not restrict rights, remedies, or defenses of any person under law or equity

O. 164.6931 Construction of KRS 164.6901 to 164.6935.

In applying and construing this Uniform Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

P. 164.6933 Effect of federal act.

The provisions of KRS 164.6901 to 164.6935 governing the legal effect, validity, or enforceability of electronic records or signatures, and of contracts formed or performed with the use of such records or signatures, conform to the requirements of Section 102 of the Electronic Signatures in Global and National Commerce Act, Pub. L. No. 106-229, 15 U.S.C. sec. 7001 *et seq.*, and supersede, modify, and limit the Electronic Signatures in Global and National Commerce Act.

Q. 164.6935 Severability.

If any provision of KRS 164.6901 to 164.6935 or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of KRS 164.6901 to 164.6935 which can be given effect without the invalid provision or application, and to this end the provisions of KRS 164.6901 to 164.6935 are severable.

II. REVISED UNIFORM ATHLETE AGENTS ACT (2015)

SECTION 1. SHORT TITLE. This [act] may be cited as the Revised Uniform Athlete Agents Act (2015).

SECTION 2. DEFINITIONS. In this [act]:

(1) "Agency contract" means an agreement in which a student athlete authorizes a person to negotiate or solicit on behalf of the athlete a professional-sports-services contract or endorsement contract.

(2) "Athlete agent":

(A) means an individual, whether or not registered under this [act], who:

(i) directly or indirectly recruits or solicits a student athlete to enter into an agency contract or, for compensation, procures employment or offers, promises, attempts, or negotiates to obtain employment for a student athlete as a professional athlete or member of a professional sports team or organization;

(ii) for compensation or in anticipation of compensation related to a student athlete's participation in athletics:

(I) serves the athlete in an advisory capacity on a matter related to finances, business pursuits, or career management decisions, unless the individual is an employee of an educational institution acting exclusively as an employee of the institution for the benefit of the institution; or

(II) manages the business affairs of the athlete by providing assistance with bills, payments, contracts, or taxes; or

(iii) in anticipation of representing a student athlete for a purpose related to the athlete's participation in athletics:

(I) gives consideration to the student athlete or another person;

(II) serves the athlete in an advisory capacity on a matter related to finances, business pursuits, or career management decisions; or

(III) manages the business affairs of the athlete by providing assistance with bills, payments, contracts, or taxes; but

(B) does not include an individual who:

(i) acts solely on behalf of a professional sports team or organization; or

(ii) is a licensed, registered, or certified professional and offers or provides services to a student athlete customarily provided by members of the profession, unless the individual:

(I) also recruits or solicits the athlete to enter into an agency contract;

(II) also, for compensation, procures employment or offers, promises, attempts, or negotiates to obtain employment for the athlete as a professional athlete or member of a professional sports team or organization; or

(III) receives consideration for providing the services calculated using a different method than for an individual who is not a student athlete.

(3) "Athletic director" means the individual responsible for administering the overall athletic program of an educational institution or, if an educational institution has separately administered athletic programs for male students and female students, the athletic program for males or the athletic program for females, as appropriate.

(4) "Commission" means the Commission on Interstate Registration of Athlete Agents.]

(5) "Compact" means the Interstate Compact for Registration of Athlete Agents.]

(6) "Educational institution" includes a public or private elementary school, secondary school, technical or vocational school, community college, college, and university.

(7) "Endorsement contract" means an agreement under which a student athlete is employed or receives consideration to use on behalf of the other party any value that the athlete may have because of publicity, reputation, following, or fame obtained because of athletic ability or performance.

(8) "Enrolled" means registered for courses and attending athletic practice or class. "Enrolls" has a corresponding meaning.

(9) "Intercollegiate sport" means a sport played at the collegiate level for which eligibility requirements for participation by a student athlete are established by a national association that promotes or regulates collegiate athletics.

(10) "Interscholastic sport" means a sport played between educational institutions that are not community colleges, colleges, or universities.

(11) "Licensed, registered, or certified professional" means an individual licensed, registered, or certified as an attorney, dealer in securities, financial planner, insurance agent, real estate broker or sales agent, tax consultant, accountant, or member of a profession, other than that of athlete agent, who is licensed, registered, or certified by the state or a nationally recognized organization that licenses, registers, or certifies members of the profession on the basis of experience, education, or testing.

(12) "Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

(13) "Professional-sports-services contract" means an agreement under which an individual is employed as a professional athlete or agrees to render services as a player on a professional sports team or with a professional sports organization.

(14) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(15) "Recruit or solicit" means attempt to influence the choice of an athlete agent by a student athlete or, if the athlete is a minor, a parent or guardian of the athlete. The term does not include giving advice on the selection of a particular agent in a family, coaching, or social situation unless the individual giving the advice does so because of the receipt or anticipated receipt of an economic benefit, directly or indirectly, from the agent.

(16) "Registration" means registration as an athlete agent under this [act].

(17) "Sign" means, with present intent to authenticate or adopt a record:

(A) to execute or adopt a tangible symbol; or

(B) to attach to or logically associate with the record an electronic symbol, sound, or process.

(18) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(19) "Student athlete" means an individual who is eligible to attend an educational institution and engages in, is eligible to engage in, or may be eligible in the future to engage in, any interscholastic or intercollegiate sport. The term does not include an individual permanently ineligible to participate in a particular interscholastic or intercollegiate sport for that sport.

Legislative Note: *The definitions of "commission" and "compact" are bracketed to reflect alternatives for registration. See the Legislative Note for Alternative A preceding Section 5.*

SECTION 3. [SECRETARY OF STATE][COMMISSION]; AUTHORITY; PROCEDURE.

Alternative A

(a) The [administrative procedure act] applies to this [act]. The [Secretary of State] may adopt rules under the [administrative procedure act] to implement this [act].

Alternative B

(a) Except as otherwise provided in this [act], the commission is an agency of the state in which the headquarters of the commission is located and the law of that state, including the law relating to administrative procedure, public records, and public meetings, applies to the commission. The commission may adopt rules under the [administrative procedure act] of the state in which its headquarters is located to implement this [act].

End of Alternatives

(b) By acting as an athlete agent in this state, a nonresident individual appoints the [Secretary of State] [commission] as the individual's agent for service of process in any civil action in this state related to the individual acting as an athlete agent in this state.

[(c) The [Secretary of State] [commission] may issue a subpoena for material that is relevant to the administration of this [act].]

Legislative Note: *There are two alternatives for subsection (a) to reflect the registration option discussed in the Legislative Note for Alternative A preceding Section 5.*

If the administrative procedure act of a state does not give administrative agencies the power to issue a cease and desist order or otherwise prevent continued conduct in violation of the act, the state should consider specifically granting the power to the agency designated as the enforcement agency.

The Secretary of State has been designated as the administrator of existing acts regulating the activities of athlete agents more frequently than any other office. It is recognized, however, that the appropriate state office to administer this act may vary from state to state and, therefore, references to the Secretary of State are in brackets.

Subsection (c) is in brackets because it may not be required under the administrative procedure acts of some states.

SECTION 4. ATHLETE AGENT: REGISTRATION REQUIRED; VOID CONTRACT.

(a) Except as otherwise provided in subsection (b), an individual may not act as an athlete agent in this state without holding a certificate of registration under this [act].

(b) Before being issued a certificate of registration under this [act] an individual may act as an athlete agent in this state for all purposes except signing an agency contract, if:

(1) a student athlete or another person acting on behalf of the athlete initiates communication with the individual; and

(2) not later than seven days after an initial act that requires the individual to register as an athlete agent, the individual submits an application for registration as an athlete agent in this state.

(c) An agency contract resulting from conduct in violation of this section is void, and the athlete agent shall return any consideration received under the contract.

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Alternative A for Sections 5 through 9

Legislative Note: *There are two alternatives for Sections 5 through 9. Alternative A establishes a registration system in the enacting state which requires the enacting state to register an individual who is registered in another state if the enacting state determines the law of the other state is substantially similar to or more restrictive than the law of the enacting state, the registration in the other state has not been revoked or suspended, and no action involving the agent's conduct as an agent is pending.*

Alternative B creates a central registration agency, the Commission on Interstate Registration of Athlete Agents, and provides that states enacting Alternative B will be entering into an interstate compact with other states that enact it.

While the numbering of the sections in the two alternatives is different because Section 5 of Alternative B creates the commission and the contents of Section 9 are folded into Section 5, the substantive requirements for the initial registration and the basis for denial of registration or the suspension, revocation, or failure to renew registration are identical in both alternatives. Thus, the effect of Alternative B in a state adopting the compact is to delegate the responsibility for the registration of athlete agents and the civil enforcement of the act to a central entity created by the compact. A state adopting Alternative B also will have to amend Section 2 to include the definition of commission for the new central registration agency and the definition of "compact" for the interstate compact, select Alternative B for Section 3(a), add bracketed Section 18 containing language formally creating the Interstate Compact, make conforming changes replacing [Secretary of State] with the commission in Section 17, and make additional conforming changes in Section 4. Since the operation of Alternative B

is conditioned on that alternative being adopted by at least five states, a state that elects to participate in the interstate compact before the interstate compact becomes effective may wish either to continue its existing athlete agent registration program until the interstate compact becomes effective and the commission created by the compact is in operation or enact Alternative A on an interim basis.

SECTION 5. REGISTRATION AS ATHLETE AGENT; APPLICATION; REQUIREMENTS; RECIPROCAL REGISTRATION.

(a) An applicant for registration as an athlete agent shall submit an application for registration to the [Secretary of State] in a form prescribed by the [Secretary of State]. The applicant must be an individual, and the application must be signed by the applicant under penalty of perjury. The application must contain at least the following:

(1) the name and date and place of birth of the applicant and the following contact information for the applicant:

(A) the address of the applicant's principal place of business;

(B) work and mobile telephone numbers; and

(C) any means of communicating electronically, including a facsimile number, electronic-mail address, and personal and business or employer websites;

(2) the name of the applicant's business or employer, if applicable, including for each business or employer, its mailing address, telephone number, organization form, and the nature of the business;

(3) each social-media account with which the applicant or the applicant's business or employer is affiliated;

(4) each business or occupation in which the applicant engaged within five years before the date of the application, including self-employment and employment by others, and any professional or occupational license, registration, or certification held by the applicant during that time;

(5) a description of the applicant's:

(A) formal training as an athlete agent;

(B) practical experience as an athlete agent; and

(C) educational background relating to the applicant's activities as an athlete agent;

(6) the name of each student athlete for whom the applicant acted as an athlete agent within five years before the date of the application or, if the

individual is a minor, the name of the parent or guardian of the minor, together with the athlete's sport and last-known team;

(7) the name and address of each person that:

(A) is a partner, member, officer, manager, associate, or profit sharer or directly or indirectly holds an equity interest of five percent or greater of the athlete agent's business if it is not a corporation; and

(B) is an officer or director of a corporation employing the athlete agent or a shareholder having an interest of five percent or greater in the corporation;

(8) a description of the status of any application by the applicant, or any person named under paragraph (7), for a state or federal business, professional, or occupational license, other than as an athlete agent, from a state or federal agency, including any denial, refusal to renew, suspension, withdrawal, or termination of the license and any reprimand or censure related to the license;

(9) whether the applicant, or any person named under paragraph (7), has pleaded guilty or no contest to, has been convicted of, or has charges pending for, a crime that would involve moral turpitude or be a felony if committed in this state and, if so, identification of:

(A) the crime;

(B) the law-enforcement agency involved; and

(C) if applicable, the date of the conviction and the fine or penalty imposed;

(10) whether, within 15 years before the date of application, the applicant, or any person named under paragraph (7), has been a defendant or respondent in a civil proceeding, including a proceeding seeking an adjudication of [legal incompetence] and, if so, the date and a full explanation of each proceeding;

(11) whether the applicant, or any person named under paragraph (7), has an unsatisfied judgment or a judgment of continuing effect, including [alimony] or a domestic order in the nature of child support, which is not current at the date of the application;

(12) whether, within 10 years before the date of application, the applicant, or any person named under paragraph (7), was adjudicated bankrupt or was an owner of a business that was adjudicated bankrupt;

(13) whether there has been any administrative or judicial determination that the applicant, or any person named under paragraph (7), made a false, misleading, deceptive, or fraudulent representation;

(14) each instance in which conduct of the applicant, or any person named under paragraph (7), resulted in the imposition of a sanction, suspension, or declaration of ineligibility to participate in an inter-scholastic, intercollegiate, or professional athletic event on a student athlete or a sanction on an educational institution;

(15) each sanction, suspension, or disciplinary action taken against the applicant, or any person named under paragraph (7), arising out of occupational or professional conduct;

(16) whether there has been a denial of an application for, suspension or revocation of, refusal to renew, or abandonment of, the registration of the applicant, or any person named under paragraph (7), as an athlete agent in any state;

(17) each state in which the applicant currently is registered as an athlete agent or has applied to be registered as an athlete agent;

(18) if the applicant is certified or registered by a professional league or players association:

(A) the name of the league or association;

(B) the date of certification or registration, and the date of expiration of the certification or registration, if any; and

(C) if applicable, the date of any denial of an application for, suspension or revocation of, refusal to renew, withdrawal of, or termination of, the certification or registration or any reprimand or censure related to the certification or registration; and

(19) any additional information required by the [Secretary of State].

(b) Instead of proceeding under subsection (a), an individual registered as an athlete agent in another state may apply for registration as an athlete agent in this state by submitting to the [Secretary of State]:

(1) a copy of the application for registration in the other state;

(2) a statement that identifies any material change in the information on the application or verifies there is no material change in the information, signed under penalty of perjury; and

(3) a copy of the certificate of registration from the other state.

(c) The [Secretary of State] shall issue a certificate of registration to an individual who applies for registration under subsection (b) if the [Secretary of State] determines:

(1) the application and registration requirements of the other state are substantially similar to or more restrictive than this [act]; and

(2) the registration has not been revoked or suspended and no action involving the individual's conduct as an athlete agent is pending against the individual or the individual's registration in any state.

(d) For purposes of implementing subsection (c), the [Secretary of State] shall:

(1) cooperate with national organizations concerned with athlete agent issues and agencies in other states which register athlete agents to develop a common registration form and determine which states have laws that are substantially similar to or more restrictive than this [act]; and

(2) exchange information, including information related to actions taken against registered athlete agents or their registrations, with those organizations and agencies.

SECTION 6. CERTIFICATE OF REGISTRATION; ISSUANCE OR DENIAL; RENEWAL.

(a) Except as otherwise provided in subsection (b), the [Secretary of State] shall issue a certificate of registration to an applicant for registration who complies with Section 5(a).

(b) The [Secretary of State] may refuse to issue a certificate of registration to an applicant for registration under Section 5(a) if the [Secretary of State] determines that the applicant has engaged in conduct that significantly adversely reflects on the applicant's fitness to act as an athlete agent. In making the determination, the [Secretary of State] may consider whether the applicant has:

(1) pleaded guilty or no contest to, has been convicted of, or has charges pending for, a crime that would involve moral turpitude or be a felony if committed in this state;

(2) made a materially false, misleading, deceptive, or fraudulent representation in the application or as an athlete agent;

(3) engaged in conduct that would disqualify the applicant from serving in a fiduciary capacity;

(4) engaged in conduct prohibited by Section 14;

(5) had a registration as an athlete agent suspended, revoked, or denied in any state;

(6) been refused renewal of registration as an athlete agent in any state;

(7) engaged in conduct resulting in imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic, intercollegiate, or professional athletic event on a student athlete or a sanction on an educational institution; or

(8) engaged in conduct that adversely reflects on the applicant's credibility, honesty, or integrity.

(c) In making a determination under subsection (b), the [Secretary of State] shall consider:

- (1) how recently the conduct occurred;
- (2) the nature of the conduct and the context in which it occurred; and
- (3) other relevant conduct of the applicant.

(d) An athlete agent registered under subsection (a) may apply to renew the registration by submitting an application for renewal in a form prescribed by the [Secretary of State]. The applicant shall sign the application for renewal under penalty of perjury and include current information on all matters required in an original application for registration.

(e) An athlete agent registered under Section 5(c) may renew the registration by proceeding under subsection (d) or, if the registration in the other state has been renewed, by submitting to the [Secretary of State] copies of the application for renewal in the other state and the renewed registration from the other state. The [Secretary of State] shall renew the registration if the [Secretary of State] determines:

- (1) the registration requirements of the other state are substantially similar to or more restrictive than this [act]; and
- (2) the renewed registration has not been suspended or revoked and no action involving the individual's conduct as an athlete agent is pending against the individual or the individual's registration in any state.

(f) A certificate of registration or renewal of registration under this [act] is valid for [two] years.

SECTION 7. SUSPENSION, REVOCATION, OR REFUSAL TO RENEW REGISTRATION.

(a) The [Secretary of State] may limit, suspend, revoke, or refuse to renew a registration of an individual registered under Section 6(a) for conduct that would have justified refusal to issue a certificate of registration under Section 6(b).

(b) The [Secretary of State] may suspend or revoke the registration of an individual registered under Section 5(c) or renewed under Section 6(e) for any reason for which the [Secretary of State] could have refused to grant or renew registration or for conduct that would justify refusal to issue a certificate of registration under Section 6(b).

SECTION 8. TEMPORARY REGISTRATION. The [Secretary of State] may issue a temporary certificate of registration as an athlete agent while an application for registration or renewal of registration is pending.

SECTION 9. REGISTRATION AND RENEWAL FEES. An application for registration or renewal of registration as an athlete agent must be accompanied by a fee in the following amount:

- (1) \$[] for an initial application for registration;
- (2) \$[] for registration based on a certificate of registration issued by another state;
- (3) \$[] for an application for renewal of registration; or
- (4) \$[] for renewal of registration based on a renewal of registration in another state.

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Alternative B for Sections 5 through 9

Legislative Note: *As discussed in the Legislative Note for Alternative A, a state adopting Alternative B also will have to amend Section 2 to include the definition of commission for the new central registration agency and the definition of "compact" for the interstate compact, select Alternative B for Section 3(a), add bracketed Section 18 containing language formally creating the Interstate Compact, make conforming changes replacing [Secretary of State] with the commission in Section 17, and make additional conforming changes in Section 4. Since the operation of Alternative B is conditioned on that alternative being adopted by at least five states, a state that elects to participate in the interstate compact before the interstate compact becomes effective may wish either to continue its existing athlete agent registration program until the interstate compact becomes effective and the commission created by the compact is in operation or enact Alternative A on an interim basis.*

SECTION 5. COMMISSION ON INTERSTATE REGISTRATION OF ATHLETE AGENTS.

(a) The Commission on Interstate Registration of Athlete Agents is created. The commission is a body corporate and joint agency of the states that enact an act substantially similar to this [act]. The commission consists of one member from each state that enacts such an act appointed by the Governor of that state.

(b) The first meeting of the commission must be held not later than 90 days after the fifth state enacts an act substantively similar to this [act]. A majority of the states that enact such an act constitutes a quorum for the conduct of business.

(c) At its first meeting, the commission shall adopt bylaws that provide for:

- (1) an executive committee to manage day-to-day affairs of the commission;
- (2) the operation of the commission, including employment of necessary staff;

(3) maintaining a location for the registration of athlete agents in the states that enact an act substantially similar to this [act];

(4) establishing the registration fee and the apportionment of the fee among the states that enact an act substantially similar to this [act]; and

(5) any other matter necessary for efficient operation of the commission.

(d) The commission:

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

(2) may accept a grant of money, equipment, supplies, materials, or services and donations;

(3) may assess each member state annually on a basis determined by the commission to cover operation costs of the commission not funded by registration fees imposed under subsection (c)(4);

(4) may not incur an obligation before securing funds adequate to meet the obligation;

(5) may not pledge the credit of a member state, except with the authority of the member state; and

(6) shall keep an accurate account of receipts and disbursements, under audit and accounting procedures established under the commission's bylaws.

(e) The receipt and disbursement of funds by the commission must be audited yearly by a certified or licensed public accountant, and the commission shall include the audit report in an annual report of the commission.

SECTION 6. REGISTRATION AS ATHLETE AGENT; APPLICATION; REQUIREMENTS. An applicant for registration as an athlete agent shall submit an application for registration to the commission in a form prescribed by the commission. The applicant must be an individual, and the application must be signed by the applicant under penalty of perjury. The application must contain at least the following:

(1) the name and date and place of birth of the applicant and the following contact information for the applicant:

(A) the address of the applicant's principal place of business;

(B) work and mobile telephone numbers; and

(C) any means of communicating electronically, including a facsimile number, electronic-mail address, and personal and business or employer websites;

(2) the name of the applicant's business or employer, if applicable, including for each business or employer, its mailing address, telephone number, organization form, and the nature of the business;

(3) each social-media account with which the applicant or the applicant's business or employer is affiliated;

(4) each business or occupation in which the applicant engaged within five years before the date of the application, including self-employment and employment by others, and any professional or occupational license, registration, or certification held by the applicant during that time;

(5) a description of the applicant's:

(A) formal training as an athlete agent;

(B) practical experience as an athlete agent; and

(C) educational background relating to the applicant's activities as an athlete agent;

(6) the name of each student athlete for whom the applicant acted as an athlete agent within five years before the date of the application or, if the athlete is a minor, the name of the parent or guardian of the minor, together with the athlete's sport and last-known team;

(7) the name and address of each person that:

(A) is a partner, member, officer, manager, associate, or profit sharer or directly or indirectly holds an equity interest of five percent or greater of the athlete agent's business if it is not a corporation; and

(B) is an officer or director of a corporation employing the athlete agent or a shareholder having an interest of five percent or greater in the corporation;

(8) a description of the status of any application by the applicant, or any person named under paragraph (7), for a state or federal business, professional, or occupational license, other than as an athlete agent, including any denial, refusal to renew, suspension, withdrawal, or termination of the license and any reprimand or censure related to the license;

(9) whether the applicant, or any person named under paragraph (7), has pleaded guilty or no contest to, has been convicted of, or has charges pending for, a crime involving moral turpitude or which is a felony and, if so, identify:

(A) the crime;

(B) the law-enforcement agency involved; and

- (C) if applicable, the date of the conviction and the fine or penalty imposed;
- (10) whether, within 15 years before the date of application, the applicant, or any person named under paragraph (7), has been a defendant or respondent in a civil proceeding, including a proceeding seeking an adjudication of legal incompetence, and, if so, the date and a full explanation of each proceeding;
- (11) whether the applicant, or any person named under paragraph (7), has an unsatisfied judgment or a judgment of continuing effect, including alimony or a domestic order in the nature of child support, which is not current at the date of the application;
- (12) whether, within 10 years before the date of application, the applicant, or any person named under paragraph (7), was adjudicated bankrupt or was an owner of a business that was adjudicated bankrupt;
- (13) whether there has been any administrative or judicial determination that the applicant, or any person named under paragraph (7), made a false, misleading, deceptive, or fraudulent representation;
- (14) each instance in which conduct of the applicant, or any person named under paragraph (7), resulted in the imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic, intercollegiate, or professional athletic event on a student athlete or a sanction on an educational institution;
- (15) each sanction, suspension, or disciplinary action taken against the applicant, or any person named under paragraph (7), arising out of occupational or professional conduct;
- (16) whether there has been a denial of an application for, suspension or revocation of, refusal to renew, or abandonment of, the registration of the applicant, or any person named under paragraph (7), as an athlete agent in any state;
- (17) each state in which the applicant currently is registered as an athlete agent or has applied to be registered as an athlete agent;
- (18) if the applicant is certified or registered by a professional league or players association:
- (A) the name of the league or association;
 - (B) the date of certification or registration, and the date of expiration of the certification or registration, if any; and
 - (C) if applicable, the date of any denial of an application for, suspension or revocation of, refusal to renew, withdrawal of, or termination of, the certification or registration or any reprimand or censure related to the certification or registration; and
- (19) any additional information required by the commission.

Legislative Note: Paragraphs (10) and (11) use the terms "legal incompetence" and "alimony". If those are not the appropriate terms for a state, the insertion of the state specific terms is not intended to be a deviation from the substantially similar requirement for the adoption of the Interstate Compact.

SECTION 7. CERTIFICATE OF REGISTRATION; ISSUANCE OR DENIAL; RENEWAL.

(a) Except as otherwise provided in subsection (b), the commission shall issue a certificate of registration to an applicant for registration who complies with Section 6.

(b) The commission may refuse to issue a certificate of registration to an applicant for registration under Section 6 if the commission determines that the applicant has engaged in conduct that significantly adversely reflects on the applicant's fitness to act as an athlete agent. In making the determination, the commission may consider whether the applicant has:

(1) pleaded guilty or no contest to, has been convicted of, or has charges pending for, a crime involving moral turpitude or which is a felony;

(2) made a materially false, misleading, deceptive, or fraudulent representation in the application or as an athlete agent;

(3) engaged in conduct that would disqualify the applicant from serving in a fiduciary capacity;

(4) engaged in conduct prohibited by Section 14;

(5) had a registration as an athlete agent suspended, revoked, or denied in any state;

(6) been refused renewal of registration as an athlete agent in any state;

(7) engaged in conduct resulting in imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic, intercollegiate, or professional athletic event on a student athlete or a sanction on an educational institution; or

(8) engaged in conduct that adversely reflects on the applicant's credibility, honesty, or integrity.

(c) In making a determination under subsection (b), the commission shall consider:

(1) how recently the conduct occurred;

(2) the nature of the conduct and the context in which it occurred; and

(3) other relevant conduct of the applicant.

(d) An athlete agent registered under subsection (a) may apply to renew the registration by submitting an application for renewal in a form prescribed by the commission. The applicant shall sign the application for renewal under penalty of perjury and include current information on all matters required in an original application for registration.

(e) A certificate of registration or a renewal of registration under this [act] is valid for two years.

SECTION 8. LIMITATION, SUSPENSION, REVOCATION, OR REFUSAL TO RENEW REGISTRATION. The commission may limit, suspend, revoke, or refuse to renew a registration of an individual registered under Section 7 for conduct that would have justified refusal to issue a certificate of registration under Section 7(b).

SECTION 9. TEMPORARY REGISTRATION. The commission may issue a temporary certificate of registration as an athlete agent while an application for registration or renewal of registration is pending.

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End of Alternatives

SECTION 10. REQUIRED FORM OF AGENCY CONTRACT.

(a) An agency contract must be in a record signed by the parties.

(b) An agency contract must contain:

(1) a statement that the athlete agent is registered as an athlete agent in this state and a list of any other states in which the agent is registered as an athlete agent;

(2) the amount and method of calculating the consideration to be paid by the student athlete for services to be provided by the agent under the contract and any other consideration the agent has received or will receive from any other source for entering into the contract or providing the services;

(3) the name of any person not listed in the agent's application for registration or renewal of registration which will be compensated because the athlete signed the contract;

(4) a description of any expenses the athlete agrees to reimburse;

(5) a description of the services to be provided to the athlete;

(6) the duration of the contract; and

(7) the date of execution.

(c) Subject to subsection (g), an agency contract must contain a conspicuous notice in boldface type and in substantially the following form:

WARNING TO STUDENT ATHLETE

IF YOU SIGN THIS CONTRACT:

(1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT ATHLETE IN YOUR SPORT;

(2) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER SIGNING THIS CONTRACT OR BEFORE THE NEXT SCHEDULED ATHLETIC EVENT IN WHICH YOU PARTICIPATE, WHICHEVER OCCURS FIRST, BOTH YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR THAT YOU HAVE ENTERED INTO THIS CONTRACT AND PROVIDE THE NAME AND CONTACT INFORMATION OF THE ATHLETE AGENT; AND

(3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY AS A STUDENT ATHLETE IN YOUR SPORT.

(d) An agency contract must be accompanied by a separate record signed by the student athlete or, if the athlete is a minor, the parent or guardian of the athlete acknowledging that signing the contract may result in the loss of the athlete's eligibility to participate in the athlete's sport.

(e) A student athlete or, if the athlete is a minor, the parent or guardian of the athlete may void an agency contract that does not conform to this section. If the contract is voided, any consideration received from the athlete agent under the contract to induce entering into the contract is not required to be returned.

(f) At the time an agency contract is executed, the athlete agent shall give the student athlete or, if the athlete is a minor, the parent or guardian of the athlete a copy in a record of the contract and the separate acknowledgement required by subsection (d).

(g) If a student athlete is a minor, an agency contract must be signed by the parent or guardian of the minor and the notice required by subsection (c) must be revised accordingly.

SECTION 11. NOTICE TO EDUCATIONAL INSTITUTION.

(a) In this section, "communicating or attempting to communicate" means contacting or attempting to contact by an in-person meeting, a record, or any other method that conveys or attempts to convey a message.

(b) Not later than 72 hours after entering into an agency contract or before the next scheduled athletic event in which the student athlete may participate, whichever occurs first, the athlete agent shall give notice in a record of the existence of the contract to the athletic director of the educational institution at

which the athlete is enrolled or at which the agent has reasonable grounds to believe the athlete intends to enroll.

(c) Not later than 72 hours after entering into an agency contract or before the next scheduled athletic event in which the student athlete may participate, whichever occurs first, the athlete shall inform the athletic director of the educational institution at which the athlete is enrolled that the athlete has entered into an agency contract and the name and contact information of the athlete agent.

(d) If an athlete agent enters into an agency contract with a student athlete and the athlete subsequently enrolls at an educational institution, the agent shall notify the athletic director of the institution of the existence of the contract not later than 72 hours after the agent knew or should have known the athlete enrolled.

(e) If an athlete agent has a relationship with a student athlete before the athlete enrolls in an educational institution and receives an athletic scholarship from the institution, the agent shall notify the institution of the relationship not later than 10 days after the enrollment if the agent knows or should have known of the enrollment and:

(1) the relationship was motivated in whole or part by the intention of the agent to recruit or solicit the athlete to enter an agency contract in the future; or

(2) the agent directly or indirectly recruited or solicited the athlete to enter an agency contract before the enrollment.

(f) An athlete agent shall give notice in a record to the athletic director of any educational institution at which a student athlete is enrolled before the agent communicates or attempts to communicate with:

(1) the athlete or, if the athlete is a minor, a parent or guardian of the athlete, to influence the athlete or parent or guardian to enter into an agency contract; or

(2) another individual to have that individual influence the athlete or, if the athlete is a minor, the parent or guardian of the athlete to enter into an agency contract.

(g) If a communication or attempt to communicate with an athlete agent is initiated by a student athlete or another individual on behalf of the athlete, the agent shall notify in a record the athletic director of any educational institution at which the athlete is enrolled. The notification must be made not later than 10 days after the communication or attempt.

(h) An educational institution that becomes aware of a violation of this [act] by an athlete agent shall notify the [Secretary of State] [commission] and any professional league or players association with which the institution is aware the agent is licensed or registered of the violation.

SECTION 12. STUDENT ATHLETE'S RIGHT TO CANCEL.

(a) A student athlete or, if the athlete is a minor, the parent or guardian of the athlete may cancel an agency contract by giving notice in a record of cancellation to the athlete agent not later than 14 days after the contract is signed.

(b) A student athlete or, if the athlete is a minor, the parent or guardian of the athlete may not waive the right to cancel an agency contract.

(c) If a student athlete, parent, or guardian cancels an agency contract, the athlete, parent, or guardian is not required to pay any consideration under the contract or return any consideration received from the athlete agent to influence the athlete to enter into the contract.

SECTION 13. REQUIRED RECORDS.

(a) An athlete agent shall create and retain for five years records of the following:

- (1) the name and address of each individual represented by the agent;
- (2) each agency contract entered into by the agent; and
- (3) the direct costs incurred by the agent in the recruitment or solicitation of each student athlete to enter into an agency contract.

(b) Records described in subsection (a) are open to inspection by the [Secretary of State] [commission] during normal business hours.

SECTION 14. PROHIBITED CONDUCT.

(a) An athlete agent, with the intent to influence a student athlete or, if the athlete is a minor, a parent or guardian of the athlete to enter into an agency contract, may not take any of the following actions or encourage any other individual to take or assist any other individual in taking any of the following actions on behalf of the agent:

- (1) give materially false or misleading information or make a materially false promise or representation;
- (2) furnish anything of value to the athlete before the athlete enters into the contract; or
- (3) furnish anything of value to an individual other than the athlete or another registered athlete agent.

(b) An athlete agent may not intentionally do any of the following or encourage any other individual to do any of the following on behalf of the agent:

- (1) initiate contact, directly or indirectly, with a student athlete or, if the athlete is a minor, a parent or guardian of the athlete, to recruit or solicit

the athlete, parent, or guardian to enter an agency contract unless registered under this [act];

(2) fail to create or retain or to permit inspection of the records required by Section 13;

(3) fail to register when required by Section 4;

(4) provide materially false or misleading information in an application for registration or renewal of registration;

(5) predate or postdate an agency contract; or

(6) fail to notify a student athlete or, if the athlete is a minor, a parent or guardian of the athlete, before the athlete, parent, or guardian signs an agency contract for a particular sport that the signing may make the athlete ineligible to participate as a student athlete in that sport.

SECTION 15. CRIMINAL PENALTY. An athlete agent who violates Section 14 is guilty of a [misdemeanor] [felony] and, on conviction, is punishable by [].

Legislative Note: Each state should determine the penalties to be imposed for a violation of the act. A state may wish to include a suspension or revocation of the registration as a part of the penalty and also may wish to dedicate all or a part of any fine to the enforcement of the act (see, for example, Section 18897.93, California Business and Professions Code).

SECTION 16. CIVIL REMEDY.

(a) An educational institution or student athlete may bring an action for damages against an athlete agent if the institution or athlete is adversely affected by an act or omission of the agent in violation of this [act]. An educational institution or student athlete is adversely affected by an act or omission of the agent only if, because of the act or omission, the institution or an individual who was a student athlete at the time of the act or omission and enrolled in the institution:

(1) is suspended or disqualified from participation in an interscholastic or intercollegiate [sports] event by or under the rules of a state or national federation or association that promotes or regulates interscholastic or intercollegiate sports; or

(2) suffers financial damage.

(b) A plaintiff that prevails in an action under this section may recover [actual damages] [treble damages] [,] [punitive damages,] [and] costs[, and reasonable attorney's fees]. An athlete agent found liable under this section forfeits any right of payment for anything of benefit or value provided to the student athlete and shall refund any consideration paid to the agent by or on behalf of the athlete.

(c) A violation of this [act] is an [unfair trade or deceptive practice] for purposes of [insert reference to state's unfair trade practices law].

Legislative Note: *If a state has a law that prohibits unfair or deceptive trade practices and provides for civil enforcement by a state agency or persons, including competitors, injured by the practice, the appropriate name for the practice and statutory citation to the applicable law should replace the bracketed language. The drafting rules in some states prohibit what is an amendment by reference and may require the unfair or deceptive trade practices act be amended. In that case, the bill should contain an appropriate amendment of the specific law and subsection (c) should be deleted. Similarly, if a state does not have an unfair or deceptive trade practices law, subsection (c) should be deleted or substantially expanded to provide for civil enforcement by a state agency, affected members of the public, and competitors.*

SECTION 17. CIVIL PENALTY. The [Secretary of State] [commission] may assess a civil penalty against an athlete agent not to exceed \$[50,000] for a violation of this [act].

[SECTION 18. INTERSTATE COMPACT FOR REGISTRATION OF ATHLETE AGENTS.

(a) In enacting this [act], this state adopts the Interstate Compact for Registration of Athlete Agents and agrees to participate with other states enacting those provisions in maintaining the Commission on Interstate Registration of Athlete Agents.

(b) Once effective, the compact continues in force and, except as otherwise provided in subsection (c), remains binding on each member state.

(c) A member state may withdraw from the compact by repealing the portions of the statute that enacted the compact into law. The withdrawal may not take effect until one year after the effective date of the statute that repeals the portions of the statute that enacted the compact into law and until written notice of the withdrawal has been given by the Governor and Secretary of State of the withdrawing state to the Governor and Secretary of State of each member state.

(d) A member state immediately shall notify the executive director of the commission in a record of the introduction of legislation to repeal the compact in the member state. Not later than 60 days after receipt of the notice, the executive director shall notify other member states of the introduction of the legislation.

(e) A state withdrawing from the compact under subsection (c) is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, including obligations the performance of which extend beyond the effective date of withdrawal.

(f) The compact is dissolved effective on the date of the withdrawal of the member state that reduces the membership in the compact to fewer than five states. On dissolution, the compact has no further effect, and the affairs of the commission must be concluded and assets distributed in accordance with the commission's bylaws.]

SECTION 19. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

SECTION 20. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This [act] modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 *et seq.*, but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103 (b) of that act, 15 U.S.C. Section 7003(b).

SECTION 21. SEVERABILITY. If any provision of this [act] or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this [act] which can be given effect without the invalid provision or application, and to this end the provisions of this [act] are severable.]

Legislative Note: Include this section only if this state lacks a general severability statute or a decision by the highest court of this state stating a general rule of severability.

SECTION 22. REPEALS; CONFORMING AMENDMENTS.

(a)

(b)

(c)

SECTION 23. EFFECTIVE DATE. This [act] takes effect

