
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1888 Session of
2019

INTRODUCED BY KOSIEROWSKI, MALAGARI, ZABEL, FLYNN, BIZZARRO,
McNEILL, BOBACK, NEILSON, SCHLOSSBERG, YOUNGBLOOD, HILL-
EVANS, T. DAVIS, TOPPER, MILLARD, JOHNSON-HARRELL,
CALTAGIRONE, FREEMAN, SHUSTERMAN, MADDEN, BARRAR, MULLERY,
ULLMAN, DELLOSO, DeLUCA, HOHENSTEIN, HOWARD, WILLIAMS,
MULLINS AND CARROLL, SEPTEMBER 26, 2019

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE,
SEPTEMBER 26, 2019

AN ACT

1 Authorizing the Commonwealth of Pennsylvania to join the Nurse
2 Licensure Compact; and providing for the form of the compact.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Nurse
7 Licensure Compact Act.

8 Section 2. Authority to execute compact.

9 The Governor, on behalf of the Commonwealth, is hereby
10 authorized to execute a compact in substantially the following
11 form with any one or more of the states of the United States,
12 and the General Assembly hereby signifies in advance its
13 approval and ratification of such compact:

14 ARTICLE I

15 Findings and Declaration of Purpose

1 a. The party states find that:

2 1. The health and safety of the public are affected by
3 the degree of compliance with and the effectiveness of
4 enforcement activities related to state nurse licensure laws;

5 2. Violations of nurse licensure and other laws
6 regulating the practice of nursing may result in injury or
7 harm to the public;

8 3. The expanded mobility of nurses and the use of
9 advanced communication technologies as part of our nation's
10 health care delivery system require greater coordination and
11 cooperation among states in the areas of nurse licensure and
12 regulation;

13 4. New practice modalities and technology make
14 compliance with individual state nurse licensure laws
15 difficult and complex;

16 5. The current system of duplicative licensure for
17 nurses practicing in multiple states is cumbersome and
18 redundant for both nurses and states; and

19 6. Uniformity of nurse licensure requirements throughout
20 the states promotes public safety and public health benefits.

21 b. The general purposes of this Compact are to:

22 1. Facilitate the states' responsibility to protect the
23 public's health and safety;

24 2. Ensure and encourage the cooperation of party states
25 in the areas of nurse licensure and regulation;

26 3. Facilitate the exchange of information between party
27 states in the areas of nurse regulation, investigation and
28 adverse actions;

29 4. Promote compliance with the laws governing the
30 practice of nursing in each jurisdiction;

1 1. Investigative information that a licensing board,
2 after a preliminary inquiry that includes notification and an
3 opportunity for the nurse to respond, if required by state
4 law, has reason to believe is not groundless and, if proved
5 true, would indicate more than a minor infraction; or

6 2. Investigative information that indicates that the
7 nurse represents an immediate threat to public health and
8 safety regardless of whether the nurse has been notified and
9 had an opportunity to respond.

10 e. "Encumbrance" means a revocation or suspension of, or any
11 limitation on, the full and unrestricted practice of nursing
12 imposed by a licensing board.

13 f. "Home state" means the party state which is the nurse's
14 primary state of residence.

15 g. "Licensing board" means a party state's regulatory body
16 responsible for issuing nurse licenses.

17 h. "Multistate license" means a license to practice as a
18 registered or a licensed practical/vocational nurse (LPN/VN)
19 issued by a home state licensing board that authorizes the
20 licensed nurse to practice in all party states under a
21 multistate licensure privilege.

22 i. "Multistate licensure privilege" means a legal
23 authorization associated with a multistate license permitting
24 the practice of nursing as either a registered nurse (RN) or
25 LPN/VN in a remote state.

26 j. "Nurse" means RN or LPN/VN, as those terms are defined by
27 each party state's practice laws.

28 k. "Party state" means any state that has adopted this
29 Compact.

30 l. "Remote state" means a party state, other than the home

1 state.

2 m. "Single-state license" means a nurse license issued by a
3 party state that authorizes practice only within the issuing
4 state and does not include a multistate licensure privilege to
5 practice in any other party state.

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

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

14 ARTICLE III

15 General Provisions and Jurisdiction

16 a. A multistate license to practice registered or licensed
17 practical/vocational nursing issued by a home state to a
18 resident in that state will be recognized by each party state as
19 authorizing a nurse to practice as a registered nurse (RN) or as
20 a licensed practical/vocational nurse (LPN/VN), under a
21 multistate licensure privilege, in each party state.

22 b. A state must implement procedures for considering the
23 criminal history records of applicants for initial multistate
24 license or licensure by endorsement. Such procedures shall
25 include the submission of fingerprints or other biometric-based
26 information by applicants for the purpose of obtaining an
27 applicant's criminal history record information from the Federal
28 Bureau of Investigation and the agency responsible for retaining
29 that state's criminal records.

30 c. Each party state shall require the following for an

1 applicant to obtain or retain a multistate license in the home
2 state:

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

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

9 ii. Has graduated from a foreign RN or LPN/VN
10 prelicensure education program that (a) has been approved
11 by the authorized accrediting body in the applicable
12 country and (b) has been verified by an independent
13 credentials review agency to be comparable to a licensing
14 board-approved prelicensure education program;

15 3. Has, if a graduate of a foreign prelicensure
16 education program not taught in English or if English is not
17 the individual's native language, successfully passed an
18 English proficiency examination that includes the components
19 of reading, speaking, writing and listening;

20 4. Has successfully passed an NCLEX-RN® or NCLEX-PN®
21 Examination or recognized predecessor, as applicable;

22 5. Is eligible for or holds an active, unencumbered
23 license;

24 6. Has submitted, in connection with an application for
25 initial licensure or licensure by endorsement, fingerprints
26 or other biometric data for the purpose of obtaining criminal
27 history record information from the Federal Bureau of
28 Investigation and the agency responsible for retaining that
29 state's criminal records;

30 7. Has not been convicted or found guilty, or has

1 entered into an agreed disposition, of a felony offense under
2 applicable state or federal criminal law;

3 8. Has not been convicted or found guilty, or has
4 entered into an agreed disposition, of a misdemeanor offense
5 related to the practice of nursing as determined on a case-
6 by-case basis;

7 9. Is not currently enrolled in an alternative program;

8 10. Is subject to self-disclosure requirements regarding
9 current participation in an alternative program; and

10 11. Has a valid United States Social Security number.

11 d. All party states shall be authorized, in accordance with
12 existing state due process law, to take adverse action against a
13 nurse's multistate licensure privilege such as revocation,
14 suspension, probation or any other action that affects a nurse's
15 authorization to practice under a multistate licensure
16 privilege, including cease and desist actions. If a party state
17 takes such action, it shall promptly notify the administrator of
18 the coordinated licensure information system. The administrator
19 of the coordinated licensure information system shall promptly
20 notify the home state of any such actions by remote states.

21 e. A nurse practicing in a party state must comply with the
22 state practice laws of the state in which the client is located
23 at the time service is provided. The practice of nursing is not
24 limited to patient care, but shall include all nursing practice
25 as defined by the state practice laws of the party state in
26 which the client is located. The practice of nursing in a party
27 state under a multistate licensure privilege will subject a
28 nurse to the jurisdiction of the licensing board, the courts and
29 the laws of the party state in which the client is located at
30 the time service is provided.

1 f. Individuals not residing in a party state shall continue
2 to be able to apply for a party state's single-state license as
3 provided under the laws of each party state. However, the
4 single-state license granted to these individuals will not be
5 recognized as granting the privilege to practice nursing in any
6 other party state. Nothing in this Compact shall affect the
7 requirements established by a party state for the issuance of a
8 single-state license.

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

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

17 2. A nurse who fails to satisfy the multistate licensure
18 requirements in Article III.c. due to a disqualifying event
19 occurring after this Compact's effective date shall be
20 ineligible to retain or renew a multistate license, and the
21 nurse's multistate license shall be revoked or deactivated in
22 accordance with applicable rules adopted by the Interstate
23 Commission of Nurse Licensure Compact Administrators
24 ("Commission").

25 ARTICLE IV

26 Applications for Licensure in a Party State

27 a. Upon application for a multistate license, the licensing
28 board in the issuing party state shall ascertain, through the
29 coordinated licensure information system, whether the applicant
30 has ever held, or is the holder of, a license issued by any

1 other state, whether there are any encumbrances on any license
2 or multistate licensure privilege held by the applicant, whether
3 any adverse action has been taken against any license or
4 multistate licensure privilege held by the applicant and whether
5 the applicant is currently participating in an alternative
6 program.

7 b. A nurse may hold a multistate license, issued by the home
8 state, in only one party state at a time.

9 c. If a nurse changes primary state of residence by moving
10 between two party states, the nurse must apply for licensure in
11 the new home state, and the multistate license issued by the
12 prior home state will be deactivated in accordance with
13 applicable rules adopted by the Commission.

14 1. The nurse may apply for licensure in advance of a
15 change in primary state of residence.

16 2. A multistate license shall not be issued by the new
17 home state until the nurse provides satisfactory evidence of
18 a change in primary state of residence to the new home state
19 and satisfies all applicable requirements to obtain a
20 multistate license from the new home state.

21 d. If a nurse changes primary state of residence by moving
22 from a party state to a non-party state, the multistate license
23 issued by the prior home state will convert to a single-state
24 license, valid only in the former home state.

25 ARTICLE V

26 Additional Authorities Invested in Party State Licensing Boards

27 a. In addition to the other powers conferred by state law, a
28 licensing board shall have the authority to:

29 1. Take adverse action against a nurse's multistate
30 licensure privilege to practice within that party state.

1 i. Only the home state shall have the power to take
2 adverse action against a nurse's license issued by the
3 home state.

4 ii. For purposes of taking adverse action, the home
5 state licensing board shall give the same priority and
6 effect to reported conduct received from a remote state
7 as it would if such conduct had occurred within the home
8 state. In so doing, the home state shall apply its own
9 state laws to determine appropriate action.

10 2. Issue cease and desist orders or impose an
11 encumbrance on a nurse's authority to practice within that
12 party state.

13 3. Complete any pending investigations of a nurse who
14 changes primary state of residence during the course of such
15 investigations. The licensing board shall also have the
16 authority to take appropriate action(s) and shall promptly
17 report the conclusions of such investigations to the
18 administrator of the coordinated licensure information
19 system. The administrator of the coordinated licensure
20 information system shall promptly notify the new home state
21 of any such actions.

22 4. Issue subpoenas for both hearings and investigations
23 that require the attendance and testimony of witnesses, as
24 well as, the production of evidence. Subpoenas issued by a
25 licensing board in a party state for the attendance and
26 testimony of witnesses or the production of evidence from
27 another party state shall be enforced in the latter state by
28 any court of competent jurisdiction, according to the
29 practice and procedure of that court applicable to subpoenas
30 issued in proceedings pending before it. The issuing

1 authority shall pay any witness fees, travel expenses,
2 mileage and other fees required by the service statutes of
3 the state in which the witnesses or evidence are located.

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

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

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

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

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

1 participation in an alternative program.

2 ARTICLE VI

3 Coordinated Licensure Information System and Exchange of
4 Information

5 a. All party states shall participate in a coordinated
6 licensure information system of all licensed registered nurses
7 (RNs) and licensed practical/vocational nurses (LPNs/VNs). This
8 system will include information on the licensure and
9 disciplinary history of each nurse, as submitted by party
10 states, to assist in the coordination of nurse licensure and
11 enforcement efforts.

12 b. The Commission, in consultation with the administrator of
13 the coordinated licensure information system, shall formulate
14 necessary and proper procedures for the identification,
15 collection and exchange of information under this Compact.

16 c. All licensing boards shall promptly report to the
17 coordinated licensure information system any adverse action, any
18 current significant investigative information, denials of
19 applications (with the reasons for such denials) and nurse
20 participation in alternative programs known to the licensing
21 board regardless of whether such participation is deemed
22 nonpublic or confidential under state law.

23 d. Current significant investigative information and
24 participation in nonpublic or confidential alternative programs
25 shall be transmitted through the coordinated licensure
26 information system only to party state licensing boards.

27 e. Notwithstanding any other provision of law, all party
28 state licensing boards contributing information to the
29 coordinated licensure information system may designate
30 information that may not be shared with non-party states or

1 disclosed to other entities or individuals without the express
2 permission of the contributing state.

3 f. Any personally identifiable information obtained from the
4 coordinated licensure information system by a party state
5 licensing board shall not be shared with non-party states or
6 disclosed to other entities or individuals except to the extent
7 permitted by the laws of the party state contributing the
8 information.

9 g. Any information contributed to the coordinated licensure
10 information system that is subsequently required to be expunged
11 by the laws of the party state contributing that information
12 shall also be expunged from the coordinated licensure
13 information system.

14 h. The Compact administrator of each party state shall
15 furnish a uniform data set to the Compact administrator of each
16 other party state, which shall include, at a minimum:

- 17 1. Identifying information;
- 18 2. Licensure data;
- 19 3. Information related to alternative program
20 participation; and
- 21 4. Other information that may facilitate the
22 administration of this Compact, as determined by Commission
23 rules.

24 i. The Compact administrator of a party state shall provide
25 all investigative documents and information requested by another
26 party state.

27 ARTICLE VII

28 Establishment of the Interstate Commission of Nurse Licensure 29 Compact Administrators

30 a. The party states hereby create and establish a joint

1 public entity known as the Interstate Commission of Nurse
2 Licensure Compact Administrators.

3 1. The Commission is an instrumentality of the party
4 states.

5 2. Venue is proper, and judicial proceedings by or
6 against the Commission shall be brought solely and
7 exclusively, in a court of competent jurisdiction where the
8 principal office of the Commission is located. The Commission
9 may waive venue and jurisdictional defenses to the extent it
10 adopts or consents to participate in alternative dispute
11 resolution proceedings.

12 3. Nothing in this Compact shall be construed to be a
13 waiver of sovereign immunity.

14 b. Membership, Voting and Meetings

15 1. Each party state shall have and be limited to one
16 administrator. The head of the state licensing board or
17 designee shall be the administrator of this Compact for each
18 party state. Any administrator may be removed or suspended
19 from office as provided by the law of the state from which
20 the Administrator is appointed. Any vacancy occurring in the
21 Commission shall be filled in accordance with the laws of the
22 party state in which the vacancy exists.

23 2. Each administrator shall be entitled to one (1) vote
24 with regard to the promulgation of rules and creation of
25 bylaws and shall otherwise have an opportunity to participate
26 in the business and affairs of the Commission. An
27 administrator shall vote in person or by such other means as
28 provided in the bylaws. The bylaws may provide for an
29 administrator's participation in meetings by telephone or
30 other means of communication.

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

4 4. All meetings shall be open to the public, and public
5 notice of meetings shall be given in the same manner as
6 required under the rulemaking provisions in Article VIII.

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

9 i. Noncompliance of a party state with its
10 obligations under this Compact;

11 ii. The employment, compensation, discipline or
12 other personnel matters, practices or procedures related
13 to specific employees or other matters related to the
14 Commission's internal personnel practices and procedures;

15 iii. Current, threatened or reasonably anticipated
16 litigation;

17 iv. Negotiation of contracts for the purchase or
18 sale of goods, services or real estate;

19 v. Accusing any person of a crime or formally
20 censuring any person;

21 vi. Disclosure of trade secrets or commercial or
22 financial information that is privileged or confidential;

23 vii. Disclosure of information of a personal nature
24 where disclosure would constitute a clearly unwarranted
25 invasion of personal privacy;

26 viii. Disclosure of investigatory records compiled
27 for law enforcement purposes;

28 ix. Disclosure of information related to any reports
29 prepared by or on behalf of the Commission for the
30 purpose of investigation of compliance with this Compact;

1 or

2 x. Matters specifically exempted from disclosure by
3 federal or state statute.

4 6. If a meeting, or portion of a meeting, is closed
5 pursuant to this provision, the Commission's legal counsel or
6 designee shall certify that the meeting may be closed and
7 shall reference each relevant exempting provision. The
8 Commission shall keep minutes that fully and clearly describe
9 all matters discussed in a meeting and shall provide a full
10 and accurate summary of actions taken, and the reasons
11 therefor, including a description of the views expressed. All
12 documents considered in connection with an action shall be
13 identified in such minutes. All minutes and documents of a
14 closed meeting shall remain under seal, subject to release by
15 a majority vote of the Commission or order of a court of
16 competent jurisdiction.

17 c. The Commission shall, by a majority vote of the
18 administrators, prescribe bylaws or rules to govern its conduct
19 as may be necessary or appropriate to carry out the purposes and
20 exercise the powers of this Compact, including but not limited
21 to:

22 1. Establishing the fiscal year of the Commission;

23 2. Providing reasonable standards and procedures:

24 i. For the establishment and meetings of other
25 committees; and

26 ii. Governing any general or specific delegation of
27 any authority or function of the Commission;

28 3. Providing reasonable procedures for calling and
29 conducting meetings of the Commission, ensuring reasonable
30 advance notice of all meetings and providing an opportunity

1 for attendance of such meetings by interested parties, with
2 enumerated exceptions designed to protect the public's
3 interest, the privacy of individuals, and proprietary
4 information, including trade secrets. The Commission may meet
5 in closed session only after a majority of the administrators
6 vote to close a meeting in whole or in part. As soon as
7 practicable, the Commission must make public a copy of the
8 vote to close the meeting revealing the vote of each
9 administrator, with no proxy votes allowed;

10 4. Establishing the titles, duties and authority and
11 reasonable procedures for the election of the officers of the
12 Commission;

13 5. Providing reasonable standards and procedures for the
14 establishment of the personnel policies and programs of the
15 Commission. Notwithstanding any civil service or other
16 similar laws of any party state, the bylaws shall exclusively
17 govern the personnel policies and programs of the Commission;
18 and

19 6. Providing a mechanism for winding up the operations
20 of the Commission and the equitable disposition of any
21 surplus funds that may exist after the termination of this
22 Compact after the payment or reserving of all of its debts
23 and obligations.

24 d. The Commission shall publish its bylaws and rules, and
25 any amendments thereto, in a convenient form on the website of
26 the Commission.

27 e. The Commission shall maintain its financial records in
28 accordance with the bylaws.

29 f. The Commission shall meet and take such actions as are
30 consistent with the provisions of this Compact and the bylaws.

1 g. The Commission shall have the following powers:

2 1. To promulgate uniform rules to facilitate and
3 coordinate implementation and administration of this Compact.
4 The rules shall have the force and effect of law and shall be
5 binding in all party states;

6 2. To bring and prosecute legal proceedings or actions
7 in the name of the Commission, provided that the standing of
8 any licensing board to sue or be sued under applicable law
9 shall not be affected;

10 3. To purchase and maintain insurance and bonds;

11 4. To borrow, accept or contract for services of
12 personnel, including, but not limited to, employees of a
13 party state or nonprofit organizations;

14 5. To cooperate with other organizations that administer
15 state compacts related to the regulation of nursing,
16 including but not limited to sharing administrative or staff
17 expenses, office space or other resources;

18 6. To hire employees, elect or appoint officers, fix
19 compensation, define duties, grant such individuals
20 appropriate authority to carry out the purposes of this
21 Compact, and to establish the Commission's personnel policies
22 and programs relating to conflicts of interest,
23 qualifications of personnel and other related personnel
24 matters;

25 7. To accept any and all appropriate donations, grants
26 and gifts of money, equipment, supplies, materials and
27 services, and to receive, utilize and dispose of the same;
28 provided that at all times the Commission shall avoid any
29 appearance of impropriety or conflict of interest;

30 8. To lease, purchase, accept appropriate gifts or

1 donations of, or otherwise to own, hold, improve or use, any
2 property, whether real, personal or mixed; provided that at
3 all times the Commission shall avoid any appearance of
4 impropriety;

5 9. To sell, convey, mortgage, pledge, lease, exchange,
6 abandon or otherwise dispose of any property, whether real,
7 personal or mixed;

8 10. To establish a budget and make expenditures;

9 11. To borrow money;

10 12. To appoint committees, including advisory committees
11 comprised of administrators, state nursing regulators, state
12 legislators or their representatives, and consumer
13 representatives, and other such interested persons;

14 13. To provide and receive information from, and to
15 cooperate with, law enforcement agencies;

16 14. To adopt and use an official seal; and

17 15. To perform such other functions as may be necessary
18 or appropriate to achieve the purposes of this Compact
19 consistent with the state regulation of nurse licensure and
20 practice.

21 h. Financing of the Commission

22 1. The Commission shall pay, or provide for the payment
23 of, the reasonable expenses of its establishment,
24 organization and ongoing activities.

25 2. The Commission may also levy on and collect an annual
26 assessment from each party state to cover the cost of its
27 operations, activities and staff in its annual budget as
28 approved each year. The aggregate annual assessment amount,
29 if any, shall be allocated based upon a formula to be
30 determined by the Commission, which shall promulgate a rule

1 that is binding upon all party states.

2 3. The Commission shall not incur obligations of any
3 kind prior to securing the funds adequate to meet the same;
4 nor shall the Commission pledge the credit of any of the
5 party states, except by, and with the authority of, such
6 party state.

7 4. The Commission shall keep accurate accounts of all
8 receipts and disbursements. The receipts and disbursements of
9 the Commission shall be subject to the audit and accounting
10 procedures established under its bylaws. However, all
11 receipts and disbursements of funds handled by the Commission
12 shall be audited yearly by a certified or licensed public
13 accountant, and the report of the audit shall be included in
14 and become part of the annual report of the Commission.

15 i. Qualified Immunity, Defense and Indemnification

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

29 2. The Commission shall defend any administrator,
30 officer, executive director, employee or representative of

1 the Commission in any civil action seeking to impose
2 liability arising out of any actual or alleged act, error or
3 omission that occurred within the scope of Commission
4 employment, duties or responsibilities, or that the person
5 against whom the claim is made had a reasonable basis for
6 believing occurred within the scope of Commission employment,
7 duties or responsibilities; provided that nothing herein
8 shall be construed to prohibit that person from retaining his
9 or her own counsel; and provided further that the actual or
10 alleged act, error or omission did not result from that
11 person's intentional, willful or wanton misconduct.

12 3. The Commission shall indemnify and hold harmless any
13 administrator, officer, executive director, employee or
14 representative of the Commission for the amount of any
15 settlement or judgment obtained against that person arising
16 out of any actual or alleged act, error or omission that
17 occurred within the scope of Commission employment, duties or
18 responsibilities, or that such person had a reasonable basis
19 for believing occurred within the scope of Commission
20 employment, duties or responsibilities, provided that the
21 actual or alleged act, error or omission did not result from
22 the intentional, willful or wanton misconduct of that person.

23 ARTICLE VIII

24 Rulemaking

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

30 b. Rules or amendments to the rules shall be adopted at a

1 regular or special meeting of the Commission.

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

6 1. On the website of the Commission; and

7 2. On the website of each licensing board or the
8 publication in which each state would otherwise publish
9 proposed rules.

10 d. The notice of proposed rulemaking shall include:

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

13 2. The text of the proposed rule or amendment, and the
14 reason for the proposed rule;

15 3. A request for comments on the proposed rule from any
16 interested person; and

17 4. The manner in which interested persons may submit
18 notice to the Commission of their intention to attend the
19 public hearing and any written comments.

20 e. Prior to adoption of a proposed rule, the Commission
21 shall allow persons to submit written data, facts, opinions and
22 arguments, which shall be made available to the public.

23 f. The Commission shall grant an opportunity for a public
24 hearing before it adopts a rule or amendment.

25 g. The Commission shall publish the place, time and date of
26 the scheduled public hearing.

27 1. Hearings shall be conducted in a manner providing
28 each person who wishes to comment a fair and reasonable
29 opportunity to comment orally or in writing. All hearings
30 will be recorded, and a copy will be made available upon

1 request.

2 2. Nothing in this section shall be construed as
3 requiring a separate hearing on each rule. Rules may be
4 grouped for the convenience of the Commission at hearings
5 required by this section.

6 h. If no one appears at the public hearing, the Commission
7 may proceed with promulgation of the proposed rule.

8 i. Following the scheduled hearing date, or by the close of
9 business on the scheduled hearing date if the hearing was not
10 held, the Commission shall consider all written and oral
11 comments received.

12 j. The Commission shall, by majority vote of all
13 administrators, take final action on the proposed rule and shall
14 determine the effective date of the rule, if any, based on the
15 rulemaking record and the full text of the rule.

16 k. Upon determination that an emergency exists, the
17 Commission may consider and adopt an emergency rule without
18 prior notice, opportunity for comment or hearing, provided that
19 the usual rulemaking procedures provided in this Compact and in
20 this section shall be retroactively applied to the rule as soon
21 as reasonably possible, in no event later than ninety (90) days
22 after the effective date of the rule. For the purposes of this
23 provision, an emergency rule is one that must be adopted
24 immediately in order to:

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

27 2. Prevent a loss of Commission or party state funds; or

28 3. Meet a deadline for the promulgation of an
29 administrative rule that is required by federal law or rule.

30 1. The Commission may direct revisions to a previously

1 adopted rule or amendment for purposes of correcting
2 typographical errors, errors in format, errors in consistency or
3 grammatical errors. Public notice of any revisions shall be
4 posted on the website of the Commission. The revision shall be
5 subject to challenge by any person for a period of thirty (30)
6 days after posting. The revision may be challenged only on
7 grounds that the revision results in a material change to a
8 rule. A challenge shall be made in writing, and delivered to the
9 Commission, prior to the end of the notice period. If no
10 challenge is made, the revision will take effect without further
11 action. If the revision is challenged, the revision may not take
12 effect without the approval of the Commission.

13 ARTICLE IX

14 Oversight, Dispute Resolution and Enforcement

15 a. Oversight

16 1. Each party state shall enforce this Compact and take
17 all actions necessary and appropriate to effectuate this
18 Compact's purposes and intent.

19 2. The Commission shall be entitled to receive service
20 of process in any proceeding that may affect the powers,
21 responsibilities or actions of the Commission, and shall have
22 standing to intervene in such a proceeding for all purposes.
23 Failure to provide service of process in such proceeding to
24 the Commission shall render a judgment or order void as to
25 the Commission, this Compact or promulgated rules.

26 b. Default, Technical Assistance and Termination

27 1. If the Commission determines that a party state has
28 defaulted in the performance of its obligations or
29 responsibilities under this Compact or the promulgated rules,
30 the Commission shall:

1 i. Provide written notice to the defaulting state
2 and other party states of the nature of the default, the
3 proposed means of curing the default or any other action
4 to be taken by the Commission; and

5 ii. Provide remedial training and specific technical
6 assistance regarding the default.

7 2. If a state in default fails to cure the default, the
8 defaulting state's membership in this Compact may be
9 terminated upon an affirmative vote of a majority of the
10 administrators, and all rights, privileges and benefits
11 conferred by this Compact may be terminated on the effective
12 date of termination. A cure of the default does not relieve
13 the offending state of obligations or liabilities incurred
14 during the period of default.

15 3. Termination of membership in this Compact shall be
16 imposed only after all other means of securing compliance
17 have been exhausted. Notice of intent to suspend or terminate
18 shall be given by the Commission to the governor of the
19 defaulting state and to the executive officer of the
20 defaulting state's licensing board and each of the party
21 states.

22 4. A state whose membership in this Compact has been
23 terminated is responsible for all assessments, obligations
24 and liabilities incurred through the effective date of
25 termination, including obligations that extend beyond the
26 effective date of termination.

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

1 6. The defaulting state may appeal the action of the
2 Commission by petitioning the U.S. District Court for the
3 District of Columbia or the federal district in which the
4 Commission has its principal offices. The prevailing party
5 shall be awarded all costs of such litigation, including
6 reasonable attorneys' fees.

7 c. Dispute Resolution

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

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

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

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

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

24 d. Enforcement

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

28 2. By majority vote, the Commission may initiate legal
29 action in the U.S. District Court for the District of
30 Columbia or the federal district in which the Commission has

1 its principal offices against a party state that is in
2 default to enforce compliance with the provisions of this
3 Compact and its promulgated rules and bylaws. The relief
4 sought may include both injunctive relief and damages. In the
5 event judicial enforcement is necessary, the prevailing party
6 shall be awarded all costs of such litigation, including
7 reasonable attorneys' fees.

8 3. The remedies herein shall not be the exclusive
9 remedies of the Commission. The Commission may pursue any
10 other remedies available under federal or state law.

11 ARTICLE X

12 Effective Date, Withdrawal and Amendment

13 a. This Compact shall become effective and binding on the
14 earlier of the date of legislative enactment of this Compact
15 into law by no less than twenty-six (26) states or December 31,
16 2018. All party states to this Compact, that also were parties
17 to the prior Nurse Licensure Compact, superseded by this
18 Compact, ("Prior Compact"), shall be deemed to have withdrawn
19 from said Prior Compact within six (6) months after the
20 effective date of this Compact.

21 b. Each party state to this Compact shall continue to
22 recognize a nurse's multistate licensure privilege to practice
23 in that party state issued under the Prior Compact until such
24 party state has withdrawn from the Prior Compact.

25 c. Any party state may withdraw from this Compact by
26 enacting a statute repealing the same. A party state's
27 withdrawal shall not take effect until six (6) months after
28 enactment of the repealing statute.

29 d. A party state's withdrawal or termination shall not
30 affect the continuing requirement of the withdrawing or

1 terminated state's licensing board to report adverse actions and
2 significant investigations occurring prior to the effective date
3 of such withdrawal or termination.

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

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

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

17 ARTICLE XI

18 Construction and Severability

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

1 the party state affected as to all severable matters.

2 Section 3. Effective date.

3 This act shall take effect immediately.