

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 655 Session of 2019

INTRODUCED BY BOSCOLA, COLLETT, J. WARD, SANTARSIERO, COSTA, FONTANA, GORDNER, BREWSTER, TARTAGLIONE AND SCAVELLO, MAY 20, 2019

SENATOR TOMLINSON, CONSUMER PROTECTION AND PROFESSIONAL LICENSURE, AS AMENDED, JUNE 9, 2020

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:

ARTICLE I

Findings and Declaration of Purpose

16 a. The party states find that:

17 1. The health and safety of the public are affected by

1 the degree of compliance with and the effectiveness of
2 enforcement activities related to state nurse licensure laws;

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

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

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

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

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

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

20 1. Facilitate the states' responsibility to protect the
21 public's health and safety;

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

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

27 4. Promote compliance with the laws governing the
28 practice of nursing in each jurisdiction;

29 5. Invest all party states with the authority to hold a
30 nurse accountable for meeting all state practice laws in the

1 state in which the patient is located at the time care is
2 rendered through the mutual recognition of party state
3 licenses;

4 6. Decrease redundancies in the consideration and
5 issuance of nurse licenses; and

6 7. Provide opportunities for interstate practice by
7 nurses who meet uniform licensure requirements.

8 ARTICLE II

9 Definitions

10 As used in this Compact:

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

20 b. "Alternative program" means a non-disciplinary monitoring
21 program approved by a licensing board.

22 c. "Coordinated licensure information system" means an
23 integrated process for collecting, storing and sharing
24 information on nurse licensure and enforcement activities
25 related to nurse licensure laws that is administered by a
26 nonprofit organization composed of and controlled by licensing
27 boards.

28 d. "Current significant investigative information" means:

29 1. Investigative information that a licensing board,
30 after a preliminary inquiry that includes notification and an

1 opportunity for the nurse to respond, if required by state
2 law, has reason to believe is not groundless and, if proved
3 true, would indicate more than a minor infraction; or

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

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

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

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

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

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

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

26 k. "Party state" means any state that has adopted this
27 Compact.

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

30 m. "Single-state license" means a nurse license issued by a

1 party state that authorizes practice only within the issuing
2 state and does not include a multistate licensure privilege to
3 practice in any other party state.

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

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

12 ARTICLE III

13 General Provisions and Jurisdiction

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

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

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

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

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

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

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

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

20 5. Is eligible for or holds an active, unencumbered
21 license;

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

28 7. Has not been convicted or found guilty, or has
29 entered into an agreed disposition, of a felony offense under
30 applicable state or federal criminal law;

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

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

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

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

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

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

29 f. Individuals not residing in a party state shall continue
30 to be able to apply for a party state's single-state license as

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

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

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

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

23 ARTICLE IV

24 Applications for Licensure in a Party State

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

1 any adverse action has been taken against any license or
2 multistate licensure privilege held by the applicant and whether
3 the applicant is currently participating in an alternative
4 program.

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

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

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

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

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

23 ARTICLE V

24 Additional Authorities Invested in Party State Licensing Boards

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

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

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

1 home state.

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

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

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

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

1 the state in which the witnesses or evidence are located.

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

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

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

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

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

30 ARTICLE VI

1 Coordinated Licensure Information System and Exchange of
2 Information

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

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

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

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

25 e. Notwithstanding any other provision of law, all party
26 state licensing boards contributing information to the
27 coordinated licensure information system may designate
28 information that may not be shared with non-party states or
29 disclosed to other entities or individuals without the express
30 permission of the contributing state.

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

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

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

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

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

25 ARTICLE VII

26 Establishment of the Interstate Commission of Nurse Licensure 27 Compact Administrators

28 a. The party states hereby create and establish a joint
29 public entity known as the Interstate Commission of Nurse
30 Licensure Compact Administrators.

1 1. The Commission is an instrumentality of the party
2 states.

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

10 3. Nothing in this Compact shall be construed to be a
11 waiver of sovereign immunity.

12 b. Membership, Voting and Meetings

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

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

29 3. The Commission shall meet at least once during each
30 calendar year. Additional meetings shall be held as set forth

1 in the bylaws or rules of the commission.

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

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

7 i. Noncompliance of a party state with its
8 obligations under this Compact;

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

13 iii. Current, threatened or reasonably anticipated
14 litigation;

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

17 v. Accusing any person of a crime or formally
18 censuring any person;

19 vi. Disclosure of trade secrets or commercial or
20 financial information that is privileged or confidential;

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

24 viii. Disclosure of investigatory records compiled
25 for law enforcement purposes;

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

30 x. Matters specifically exempted from disclosure by

1 federal or state statute.

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

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

20 1. Establishing the fiscal year of the Commission;

21 2. Providing reasonable standards and procedures:

22 i. For the establishment and meetings of other
23 committees; and

24 ii. Governing any general or specific delegation of
25 any authority or function of the Commission;

26 3. Providing reasonable procedures for calling and
27 conducting meetings of the Commission, ensuring reasonable
28 advance notice of all meetings and providing an opportunity
29 for attendance of such meetings by interested parties, with
30 enumerated exceptions designed to protect the public's

1 interest, the privacy of individuals, and proprietary
2 information, including trade secrets. The Commission may meet
3 in closed session only after a majority of the administrators
4 vote to close a meeting in whole or in part. As soon as
5 practicable, the Commission must make public a copy of the
6 vote to close the meeting revealing the vote of each
7 administrator, with no proxy votes allowed;

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

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

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

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

25 e. The Commission shall maintain its financial records in
26 accordance with the bylaws.

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

29 g. The Commission shall have the following powers:

30 1. To promulgate uniform rules to facilitate and

1 coordinate implementation and administration of this Compact.
2 The rules shall have the force and effect of law and shall be
3 binding in all party states;

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

8 3. To purchase and maintain insurance and bonds;

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

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

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

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

28 8. To lease, purchase, accept appropriate gifts or
29 donations of, or otherwise to own, hold, improve or use, any
30 property, whether real, personal or mixed; provided that at

1 all times the Commission shall avoid any appearance of
2 impropriety;

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

6 10. To establish a budget and make expenditures;

7 11. To borrow money;

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

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

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

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

19 h. Financing of the Commission

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

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

30 3. The Commission shall not incur obligations of any

1 kind prior to securing the funds adequate to meet the same;
2 nor shall the Commission pledge the credit of any of the
3 party states, except by, and with the authority of, such
4 party state.

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

13 i. Qualified Immunity, Defense and Indemnification

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

27 2. The Commission shall defend any administrator,
28 officer, executive director, employee or representative of
29 the Commission in any civil action seeking to impose
30 liability arising out of any actual or alleged act, error or

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

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

21 ARTICLE VIII

22 Rulemaking

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

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

30 c. Prior to promulgation and adoption of a final rule or

1 rules by the Commission, and at least sixty (60) days in advance
2 of the meeting at which the rule will be considered and voted
3 upon, the Commission shall file a notice of proposed rulemaking:

- 4 1. On the website of the Commission; and
- 5 2. On the website of each licensing board or the
6 publication in which each state would otherwise publish
7 proposed rules.

8 d. The notice of proposed rulemaking shall include:

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

11 2. The text of the proposed rule or amendment, and the
12 reason for the proposed rule;

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

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

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

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

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

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

30 2. Nothing in this section shall be construed as

1 requiring a separate hearing on each rule. Rules may be
2 grouped for the convenience of the Commission at hearings
3 required by this section.

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

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

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

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

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

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

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

28 1. The Commission may direct revisions to a previously
29 adopted rule or amendment for purposes of correcting
30 typographical errors, errors in format, errors in consistency or

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

11 ARTICLE IX

12 Oversight, Dispute Resolution and Enforcement

13 a. Oversight

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

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

24 b. Default, Technical Assistance and Termination

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

29 i. Provide written notice to the defaulting state

30 and other party states of the nature of the default, the

1 proposed means of curing the default or any other action
2 to be taken by the Commission; and

3 ii. Provide remedial training and specific technical
4 assistance regarding the default.

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

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

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

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

29 6. The defaulting state may appeal the action of the
30 Commission by petitioning the U.S. District Court for the

1 District of Columbia or the federal district in which the
2 Commission has its principal offices. The prevailing party
3 shall be awarded all costs of such litigation, including
4 reasonable attorneys' fees.

5 c. Dispute Resolution

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

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

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

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

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

22 d. Enforcement

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

26 2. By majority vote, the Commission may initiate legal
27 action in the U.S. District Court for the District of
28 Columbia or the federal district in which the Commission has
29 its principal offices against a party state that is in
30 default to enforce compliance with the provisions of this

1 Compact and its promulgated rules and bylaws. The relief
2 sought may include both injunctive relief and damages. In the
3 event judicial enforcement is necessary, the prevailing party
4 shall be awarded all costs of such litigation, including
5 reasonable attorneys' fees.

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

9 ARTICLE X

10 Effective Date, Withdrawal and Amendment

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

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

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

27 d. A party state's withdrawal or termination shall not
28 affect the continuing requirement of the withdrawing or
29 terminated state's licensing board to report adverse actions and
30 significant investigations occurring prior to the effective date

1 of such withdrawal or termination.

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

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

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

15 ARTICLE XI

16 Construction and Severability

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

30 SECTION 3. EXECUTION AND NOTICE.

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1 (A) GENERAL RULE.--WHEN THE GOVERNOR EXECUTES THE COMPACT ON
2 BEHALF OF THIS COMMONWEALTH AND FILES A VERIFIED COPY OF THE
3 COMPACT WITH THE SECRETARY OF THE COMMONWEALTH AND WHEN THE
4 COMPACT IS RATIFIED BY ONE OR MORE OTHER STATES, THEN THE
5 COMPACT SHALL BECOME OPERATIVE AND EFFECTIVE BETWEEN THIS
6 COMMONWEALTH AND THE OTHER STATE OR STATES. THE GOVERNOR IS
7 AUTHORIZED AND DIRECTED TO TAKE SUCH ACTION AS MAY BE NECESSARY
8 TO COMPLETE THE EXCHANGE OF OFFICIAL DOCUMENTS BETWEEN THIS
9 COMMONWEALTH AND ANY OTHER STATE RATIFYING THE COMPACT.

10 (B) NOTICE IN PENNSYLVANIA BULLETIN.--THE SECRETARY OF THE
11 COMMONWEALTH SHALL TRANSMIT NOTICE TO THE LEGISLATIVE REFERENCE
12 BUREAU FOR PUBLICATION IN THE PENNSYLVANIA BULLETIN WHEN THE
13 CONDITIONS SPECIFIED IN SUBSECTION (A) ARE SATISFIED AND SHALL
14 INCLUDE IN THE NOTICE THE DATE ON WHICH THE COMPACT BECAME
15 EFFECTIVE AND OPERATIVE BETWEEN THIS COMMONWEALTH AND ANY OTHER
16 STATE OR STATES IN ACCORDANCE WITH THIS ACT.

17 SECTION 4. COMPENSATION AND EXPENSES OF COMPACT ADMINISTRATOR.

18 THE COMPACT ADMINISTRATOR WHO REPRESENTS THIS COMMONWEALTH,
19 AS PROVIDED IN THE COMPACT, SHALL NOT BE ENTITLED TO ANY
20 ADDITIONAL COMPENSATION FOR HIS DUTIES AND RESPONSIBILITIES AS
21 COMPACT ADMINISTRATOR BUT SHALL BE ENTITLED TO REIMBURSEMENT FOR
22 REASONABLE EXPENSES ACTUALLY INCURRED IN CONNECTION WITH HIS
23 DUTIES AND RESPONSIBILITIES AS COMPACT ADMINISTRATOR IN THE SAME
24 MANNER AS FOR EXPENSES INCURRED IN CONNECTION WITH OTHER DUTIES
25 AND RESPONSIBILITIES OF THE COMPACT ADMINISTRATOR'S OFFICE OR
26 EMPLOYMENT.

27 SECTION 5. NATIONAL CRIMINAL HISTORY RECORD CHECKS.

28 ALL APPLICANTS FOR LICENSURE UNDER THE COMPACT IN THIS
29 COMMONWEALTH SHALL REQUEST AND SUBMIT TO THE LICENSING BOARD THE
30 RESULTS OF A NATIONAL CRIMINAL HISTORY RECORD CHECK. THE PURPOSE

1 OF THE NATIONAL CRIMINAL HISTORY RECORD CHECK SHALL BE TO ASSIST
2 THE LICENSING BOARD IN OBTAINING INFORMATION THAT MAY RELATE TO
3 THE APPLICANT'S FITNESS FOR LICENSURE. THE FOLLOWING SHALL
4 APPLY:

5 (1) AN APPLICANT FOR LICENSURE SHALL SUBMIT TO
6 FINGERPRINTING BY THE PENNSYLVANIA STATE POLICE OR AN
7 AUTHORIZED AGENT OF THE PENNSYLVANIA STATE POLICE. THE
8 PENNSYLVANIA STATE POLICE OR AUTHORIZED AGENT SHALL SUBMIT
9 THE FINGERPRINTS TO THE FEDERAL BUREAU OF INVESTIGATION FOR
10 THE PURPOSES OF OBTAINING RECORDS OF CRIMINAL ARRESTS AND
11 CONVICTIONS.

12 (2) IN ADDITION TO THE APPLICATION FEE, THE APPLICANT
13 SHALL BE RESPONSIBLE FOR ANY FEES REQUIRED BY THE
14 PENNSYLVANIA STATE POLICE OR AUTHORIZED AGENT FOR THE COSTS
15 OF THE FINGERPRINTING AND THE COSTS OF CONDUCTING A COMPLETE
16 CRIMINAL HISTORY RECORD CHECK.

17 (3) THE APPLICANT SHALL AUTHORIZE THE RELEASE OF ALL
18 RECORDS OBTAINED BY THE CRIMINAL HISTORY RECORD CHECK TO THE
19 LICENSING BOARD.

20 (4) A CRIMINAL HISTORY RECORD CHECK SUBMITTED IN SUPPORT
21 OF AN APPLICATION FOR LICENSURE MUST HAVE BEEN REQUESTED BY
22 THE APPLICANT NO EARLIER THAN 12 MONTHS IMMEDIATELY PRIOR TO
23 THE BOARD'S RECEIPT OF THE APPLICANT'S APPLICATION FOR
24 LICENSURE.

25 (5) INFORMATION OBTAINED FROM THE CRIMINAL HISTORY
26 RECORD CHECK:

27 (I) IS CONFIDENTIAL.

28 (II) MAY NOT BE RE-DISSEMINATED.

29 (III) MAY BE USED ONLY FOR THE LICENSING PURPOSE
30 AUTHORIZED UNDER THE COMPACT.

1 Section 3 6. Effective date.

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2 This act shall take effect immediately.