

HOUSE BILL No. 2496

By Committee on Health and Human Services

1-18

1 AN ACT concerning nursing; board of nursing; enacting the nurse
2 licensure compact; authorizing criminal history record checks.

3
4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. This act shall be know and may be cited as the nurse
6 licensure compact.

7 Nurse Licensure Compact

8 ARTICLE I

9 FINDINGS AND DECLARATION OF PURPOSE

10 (a) The legislature of the state of Kansas finds that:

11 (1) The health and safety of the public are affected by the degree of
12 compliance with and the effectiveness of enforcement activities related to
13 state nurse licensure laws;

14 (2) violations of nurse licensure and other laws regulating the practice
15 of nursing may result in injury or harm to the public;

16 (3) the expanded mobility of nurses and the use of advanced
17 communication technologies as part of our nation's health care delivery
18 system require greater coordination and cooperation among states in the
19 areas of nurse licensure and regulation;

20 (4) new practice modalities and technology make compliance with
21 individual state nurse licensure laws difficult and complex;

22 (5) the current system of duplicative licensure for nurses practicing in
23 multiple states is cumbersome and redundant for both nurses and states;
24 and

25 (6) uniformity of nurse licensure requirements among the states
26 promotes public safety and public health benefits.

27 (b) The general purposes of this compact are to:

28 (1) Facilitate the states' responsibility to protect the public's health
29 and safety;

30 (2) ensure and encourage the cooperation of party states in the areas
31 of nurse licensure and regulation;

32 (3) facilitate the exchange of information among party states in the
33 areas of nurse regulation, investigation and adverse actions;

34 (4) promote compliance with the laws governing the practice of
35 nursing in each jurisdiction;

36 (5) invest all party states with the authority to hold a nurse

1 accountable for meeting all state practice laws in the state in which the
2 patient is located at the time care is rendered through the mutual
3 recognition of party-state licenses;

4 (6) decrease redundancies in the consideration and issuance of nurse
5 licenses; and

6 (7) provide opportunities for interstate practice by nurses who meet
7 uniform licensure requirements.

8 ARTICLE II
9 DEFINITIONS

10 As used in this compact:

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

19 (b) "Alternative program" means a nondisciplinary monitoring
20 program approved by a licensing board.

21 (c) "Commission" means the interstate commission of nurse licensure
22 compact administrators.

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

28 (e) "Current significant investigative information" means:

29 (1) Investigative information that a licensing board, after a
30 preliminary inquiry that includes notification and an opportunity for the
31 nurse to respond, if required by state law, has reason to believe is not
32 groundless and, if proved true, would indicate more than a minor
33 infraction; or

34 (2) investigative information that indicates that the nurse represents
35 an immediate threat to public health and safety, regardless of whether the
36 nurse has been notified and had an opportunity to respond.

37 (f) "Encumbrance" means a revocation or suspension of, or any
38 limitation on, the full and unrestricted practice of nursing imposed by a
39 licensing board.

40 (g) "Home state" means the party state that is the nurse's primary state
41 of residence.

42 (h) "Licensing board" means a party state's regulatory body
43 responsible for issuing nurse licenses.

- 1 (i) "LPN/VN" means a licensed practical/vocational nurse.
- 2 (j) "Multistate license" means a license to practice as a registered or a
3 licensed practical/vocational nurse (LPN/VN) issued by a home state
4 licensing board that authorizes the licensed nurse to practice in all party
5 states under a multistate licensure privilege.
- 6 (k) "Multistate licensure privilege" means a legal authorization
7 associated with a multistate license permitting the practice of nursing as
8 either a registered nurse (RN) or LPN/VN in a remote state.
- 9 (l) "Nurse" means RN or LPN/VN, as those terms are defined by each
10 party state's practice laws.
- 11 (m) "Party state" means any state that has adopted this compact.
- 12 (n) "Remote state" means a party state, other than the home state.
- 13 (o) "RN" means a registered nurse.
- 14 (p) "Single-state license" means a nurse license issued by a party state
15 that authorizes practice only within the issuing state and does not include a
16 multistate licensure privilege to practice in any other party state.
- 17 (q) "State" means a state, territory or possession of the United States
18 and the District of Columbia.
- 19 (r) "State practice laws" means a party state's laws, rules and
20 regulations that govern the practice of nursing, define the scope of nursing
21 practice, and create the methods and grounds for imposing discipline. State
22 practice laws do not include requirements necessary to obtain and retain a
23 license, except for qualifications or requirements of the home state.

ARTICLE III

GENERAL PROVISIONS AND JURISDICTION

- 26 (a) A multistate license to practice registered or licensed
27 practical/vocational nursing issued by a home state to a resident in that
28 state will be recognized by each party state as authorizing a nurse to
29 practice as an RN or as an LPN/VN, under a multistate licensure privilege,
30 in each party state.
- 31 (b) A state must implement procedures for considering the criminal
32 history records of applicants for an initial multistate license or licensure by
33 endorsement. Such procedures shall include the submission of fingerprints
34 or other biometric-based information by applicants for the purpose of
35 obtaining an applicant's criminal history record information from the
36 federal bureau of investigation and the agency responsible for retaining
37 that state's criminal records.
- 38 (c) Each party state shall require the following for an applicant to
39 obtain or retain a multistate license in the home state:
- 40 (1) Has met the home state's qualifications for licensure or renewal of
41 licensure, as well as all other applicable state laws;
- 42 (2) (A) has graduated or is eligible to graduate from a licensing
43 board-approved RN or LPN/VN prelicensure education program; or

1 (B) has graduated from a foreign RN or LPN/VN precicensure
2 education program that: (i) Has been approved by the authorized
3 accrediting body in the applicable country; and (ii) has been verified by an
4 independent credentials review agency to be comparable to a licensing
5 board-approved precicensure education program;

6 (3) has, if a graduate of a foreign precicensure education program, not
7 taught in English or, if English is not the individual's native language,
8 successfully passed an English proficiency examination that includes the
9 components of reading, speaking, writing and listening;

10 (4) has successfully passed an NCLEX-RN or NCLEX-PN
11 examination or recognized predecessor, as applicable;

12 (5) is eligible for or holds an active unencumbered license;

13 (6) has submitted, in connection with an application for initial
14 licensure or licensure by endorsement, fingerprints or other biometric data
15 for the purpose of obtaining criminal history record information from the
16 federal bureau of investigation and the Kansas bureau of investigation;

17 (7) has not been convicted or found guilty or has entered into an
18 agreed disposition of a felony offense under applicable state or federal
19 criminal law;

20 (8) has not been convicted or found guilty or has entered into an
21 agreed disposition of a misdemeanor offense related to the practice of
22 nursing as determined on a case-by-case basis;

23 (9) is not currently enrolled in an alternative program;

24 (10) is subject to self-disclosure requirements regarding current
25 participation in an alternative program; and

26 (11) has a valid United States social security number.

27 (d) All party states shall be authorized, in accordance with existing
28 state due process law, to take adverse action against a nurse's multistate
29 licensure privilege, such as revocation, suspension, probation or any other
30 action that affects a nurse's authorization to practice under a multistate
31 licensure privilege, including cease and desist actions. If a party state takes
32 such action, it shall promptly notify the administrator of the coordinated
33 licensure information system. The administrator of the coordinated
34 licensure information system shall promptly notify the home state of any
35 such actions by remote states.

36 (e) A nurse practicing in a party state must comply with the state
37 practice laws of the state in which the client is located at the time service is
38 provided. The practice of nursing is not limited to patient care, but shall
39 include all nursing practice as defined by the state practice laws of the
40 party state in which the client is located. The practice of nursing in a party
41 state under a multistate licensure privilege will subject a nurse to the
42 jurisdiction of the licensing board, the courts and the laws of the party
43 state in which the client is located at the time service is provided.

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

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

11 (1) A nurse who changes such nurse's primary state of residence after
12 this compact's effective date must meet all applicable article III(c)
13 requirements to obtain a multistate license from a new home state.

14 (2) A nurse who fails to satisfy the multistate licensure requirements
15 in article III(c) due to a disqualifying event occurring after this compact's
16 effective date shall be ineligible to retain or renew a multistate license, and
17 the nurse's multistate license shall be revoked or deactivated in accordance
18 with applicable rules adopted by the commission.

19 ARTICLE IV

20 APPLICATIONS FOR LICENSURE IN A PARTY STATE

21 (a) Upon application for a multistate license, the licensing board in the
22 issuing party state shall ascertain, through the coordinated licensure
23 information system, whether the applicant has ever held, or is the holder
24 of, a license issued by any other state, whether there are any encumbrances
25 on any license or multistate licensure privilege held by the applicant,
26 whether any adverse action has been taken against any license or
27 multistate licensure privilege held by the applicant and whether the
28 applicant is currently participating in an alternative program.

29 (b) A nurse may hold a multistate license, issued by the home state, in
30 only one party state at a time.

31 (c) If a nurse changes primary state of residence by moving between
32 two party states, the nurse must apply for licensure in the new home state,
33 and the multistate license issued by the prior home state will be
34 deactivated in accordance with applicable rules adopted by the
35 commission.

36 (1) The nurse may apply for licensure in advance of a change in
37 primary state of residence.

38 (2) A multistate license shall not be issued by the new home state
39 until the nurse provides satisfactory evidence of a change in primary state
40 of residence to the new home state and satisfies all applicable requirements
41 to obtain a multistate license from the new home state.

42 (d) If a nurse changes primary state of residence by moving from a
43 party state to a nonparty state, the multistate license issued by the prior

1 home state will convert to a single-state license, valid only in the former
2 home state.

3 ARTICLE V
4 ADDITIONAL AUTHORITIES INVESTED
5 IN PARTY-STATE LICENSING BOARDS
6

7 (a) In addition to the other powers conferred by state law, a licensing
8 board shall have the authority to:

9 (1) Take adverse action against a nurse's multistate licensure privilege
10 to practice within that party state:

11 (A) Only the home state shall have the power to take adverse action
12 against a nurse's license issued by the home state; and

13 (B) for purposes of taking adverse action, the home-state licensing
14 board shall give the same priority and effect to reported conduct received
15 from a remote state as it would if such conduct had occurred within the
16 home state. In so doing, the home state shall apply its own state laws to
17 determine appropriate action;

18 (2) issue cease and desist orders or impose an encumbrance on a
19 nurse's authority to practice within that party state;

20 (3) complete any pending investigations of a nurse who changes
21 primary state of residence during the course of such investigations. The
22 licensing board shall also have the authority to take appropriate actions
23 and shall promptly report the conclusions of such investigations to the
24 administrator of the coordinated licensure information system. The
25 administrator of the coordinated licensure information system shall
26 promptly notify the new home state of any such actions;

27 (4) issue subpoenas for both hearings and investigations that require
28 the attendance and testimony of witnesses, as well as the production of
29 evidence. Subpoenas issued by a licensing board in a party state for the
30 attendance and testimony of witnesses or the production of evidence from
31 another party state shall be enforced in the latter state by any court of
32 competent jurisdiction, according to the practice and procedure of that
33 court applicable to subpoenas issued in proceedings pending before it. The
34 issuing authority shall pay any witness fees, travel expenses, mileage and
35 other fees required by the service statutes of the state in which the
36 witnesses or evidence are located;

37 (5) obtain and submit, for each nurse licensure applicant, fingerprint
38 or other biometric-based information to the federal bureau of investigation
39 for criminal background checks, receive the results of the federal bureau of
40 investigation record search on criminal background checks and use the
41 results in making licensure decisions;

42 (6) if otherwise permitted by state law, recover from the affected
43 nurse the costs of investigations and disposition of cases resulting from

1 any adverse action taken against that nurse; and

2 (7) take adverse action based on the factual findings of the remote
3 state, provided that the licensing board follows its own procedures for
4 taking such adverse action.

5 (b) If adverse action is taken by the home state against a nurse's
6 multistate license, the nurse's multistate licensure privilege to practice in
7 all other party states shall be deactivated until all encumbrances have been
8 removed from the multistate license. All home-state disciplinary orders
9 that impose adverse action against a nurse's multistate license shall include
10 a statement that the nurse's multistate licensure privilege is deactivated in
11 all party states during the pendency of the order.

12 (c) Nothing in this compact shall override a party state's decision that
13 participation in an alternative program may be used in lieu of adverse
14 action. The home-state licensing board shall deactivate the multistate
15 licensure privilege under the multistate license of any nurse for the
16 duration of the nurse's participation in an alternative program.

17 ARTICLE VI
18 COORDINATED LICENSURE INFORMATION
19 SYSTEM AND EXCHANGE OF INFORMATION
20

21 (a) All party states shall participate in a coordinated licensure
22 information system of all licensed RNs and LPNs/VNs. This system will
23 include information on the licensure and disciplinary history of each nurse,
24 as submitted by party states, to assist in the coordination of nurse licensure
25 and enforcement efforts.

26 (b) The commission, in consultation with the administrator of the
27 coordinated licensure information system, shall formulate necessary and
28 proper procedures for the identification, collection and exchange of
29 information under this compact.

30 (c) All licensing boards shall promptly report to the coordinated
31 licensure information system any adverse action, any current significant
32 investigative information, denials of applications, with the reasons for such
33 denials, and nurse participation in alternative programs known to the
34 licensing board regardless of whether such participation is deemed
35 nonpublic or confidential under state law.

36 (d) Current significant investigative information and participation in
37 nonpublic or confidential alternative programs shall be transmitted through
38 the coordinated licensure information system only to party-state licensing
39 boards.

40 (e) Notwithstanding any other provision of law, all party-state
41 licensing boards contributing information to the coordinated licensure
42 information system may designate information, which may not be shared
43 with non-party states or disclosed to other entities or individuals without

1 the express permission of the contributing state.

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

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

11 (h) The compact administrator of each party state shall furnish a
12 uniform data set to the compact administrator of each other party state,
13 which shall include, at a minimum:

14 (1) Identifying information;

15 (2) licensure data;

16 (3) information related to alternative program participation; and

17 (4) other information that may facilitate the administration of this
18 compact, as determined by commission rules.

19 (i) The compact administrator of a party state shall provide all
20 investigative documents and information requested by another party state.

21 ARTICLE VII

22 ESTABLISHMENT OF THE INTERSTATE COMMISSION 23 OF NURSE LICENSURE COMPACT ADMINISTRATORS

24

25 (a) The party states hereby create and establish a joint public entity
26 known as the interstate commission of nurse licensure compact
27 administrators.

28 (1) The commission is an instrumentality of the party states.

29 (2) Venue is proper, and judicial proceedings by or against the
30 commission shall be brought solely and exclusively in a court of
31 competent jurisdiction where the principal office of the commission is
32 located. The commission may waive venue and jurisdictional defenses to
33 the extent it adopts or consents to participate in alternative dispute
34 resolution proceedings.

35 (3) Nothing in this compact shall be construed to be a waiver of
36 sovereign immunity.

37 (b) Membership, voting and meetings:

38 (1) Each party-state shall have and be limited to one administrator.
39 The head of the state licensing board or designee shall be the administrator
40 of this compact for each party state. Any administrator may be removed or
41 suspended from office as provided by the laws of the state from which the
42 administrator is appointed. Any vacancy occurring in the commission shall
43 be filled in accordance with the laws of the party state in which the

1 vacancy exists.

2 (2) Each administrator shall be entitled to one vote with regard to the
3 promulgation of rules and creation of bylaws and shall otherwise have an
4 opportunity to participate in the business and affairs of the commission. An
5 administrator shall vote in person or by such other means as provided in
6 the bylaws. The bylaws may provide for an administrator's participation in
7 meetings by telephone or other means of communication.

8 (3) The commission shall meet at least once during each calendar
9 year. Additional meetings shall be held as set forth in the bylaws or rules
10 of the commission.

11 (4) All meetings shall be open to the public, and public notice of
12 meetings shall be given in the same manner as required under the
13 rulemaking provisions in article VIII of this compact.

14 (5) The commission may convene in a closed, nonpublic meeting if
15 the commission must discuss:

16 (A) Noncompliance of a party state with its obligations under this
17 compact;

18 (B) the employment, compensation, discipline or other personnel
19 matters, practices or procedures related to specific employees or other
20 matters related to the commission's internal personnel practices and
21 procedures;

22 (C) current, threatened or reasonably anticipated litigation;

23 (D) negotiation of contracts for the purchase or sale of goods,
24 services or real estate;

25 (E) accusing any person of a crime or formally censuring any person;

26 (F) disclosure of trade secrets or commercial or financial information
27 that is privileged or confidential;

28 (G) disclosure of information of a personal nature where disclosure
29 would constitute a clearly unwarranted invasion of personal privacy;

30 (H) disclosure of investigatory records compiled for law enforcement
31 purposes;

32 (I) disclosure of information related to any reports prepared by or on
33 behalf of the commission for the purpose of investigation of compliance
34 with this compact; or

35 (J) matters specifically exempted from disclosure by federal or state
36 statute.

37 (6) If a meeting, or portion of a meeting, is closed pursuant to this
38 provision, the commission's legal counsel or designee shall certify that the
39 meeting may be closed and shall reference each relevant exempting
40 provision. The commission shall keep minutes that fully and clearly
41 describe all matters discussed in a meeting and shall provide a full and
42 accurate summary of actions taken, and the reasons therefor, including a
43 description of the views expressed. All documents considered in

1 connection with an action shall be identified in such minutes. All minutes
2 and documents of a closed meeting shall remain under seal, subject to
3 release by a majority vote of the commission or order of a court of
4 competent jurisdiction.

5 (c) The commission shall, by a majority vote of the administrators,
6 prescribe bylaws or rules to govern its conduct as may be necessary or
7 appropriate to carry out the purposes and exercise the powers of this
8 compact, including, but not limited to:

- 9 (1) Establishing the fiscal year of the commission;
- 10 (2) providing reasonable standards and procedures:
 - 11 (A) For the establishment and meetings of other committees; and
 - 12 (B) governing any general or specific delegation of any authority or
13 function of the commission;
- 14 (3) providing reasonable procedures for calling and conducting
15 meetings of the commission, ensuring reasonable advance notice of all
16 meetings and providing an opportunity for attendance of such meetings by
17 interested parties, with enumerated exceptions designed to protect the
18 public's interest, the privacy of individuals, and proprietary information,
19 including trade secrets. The commission may meet in closed session only
20 after a majority of the administrators vote to close a meeting in whole or in
21 part. As soon as practicable, the commission must make public a copy of
22 the vote to close the meeting revealing the vote of each administrator, with
23 no proxy votes allowed;
- 24 (4) establishing the titles, duties and authority and reasonable
25 procedures for the election of the officers of the commission;
- 26 (5) providing reasonable standards and procedures for the
27 establishment of the personnel policies and programs of the commission.
28 Notwithstanding any civil service or other similar laws of any party state,
29 the bylaws shall exclusively govern the personnel policies and programs of
30 the commission; and
- 31 (6) providing a mechanism for winding up the operations of the
32 commission and the equitable disposition of any surplus funds that may
33 exist after the termination of this compact after the payment or reserving
34 of all of its debts and obligations.
- 35 (d) The commission shall publish its bylaws and rules, and any
36 amendments thereto, in a convenient form on the website of the
37 commission.
- 38 (e) The commission shall maintain its financial records in accordance
39 with the bylaws.
- 40 (f) The commission shall meet and take such actions as are consistent
41 with the provisions of this compact and the bylaws.
- 42 (g) The commission shall have the following powers:
 - 43 (1) To promulgate uniform rules to facilitate and coordinate

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

3 (2) to bring and prosecute legal proceedings or actions in the name of
4 the commission, provided that the standing of any licensing board to sue or
5 be sued under applicable law shall not be affected;

6 (3) to purchase and maintain insurance and bonds;

7 (4) to borrow, accept or contract for services of personnel, including,
8 but not limited to, employees of a party state or nonprofit organizations;

9 (5) to cooperate with other organizations that administer state
10 compacts related to the regulation of nursing, including, but not limited to,
11 sharing administrative or staff expenses, office space or other resources;

12 (6) to hire employees, elect or appoint officers, fix compensation,
13 define duties, grant such individuals appropriate authority to carry out the
14 purposes of this compact, and to establish the commission's personnel
15 policies and programs relating to conflicts of interest, qualifications of
16 personnel and other related personnel matters;

17 (7) to accept any and all appropriate donations, grants and gifts of
18 money, equipment, supplies, materials and services, and to receive, utilize
19 and dispose of the same, provided that at all times the commission shall
20 avoid any appearance of impropriety or conflict of interest;

21 (8) to lease, purchase, accept appropriate gifts or donations of, or
22 otherwise to own, hold, improve or use, any property, whether real,
23 personal or mixed, provided that at all times the commission shall avoid
24 any appearance of impropriety;

25 (9) to sell, convey, mortgage, pledge, lease, exchange, abandon or
26 otherwise dispose of any property, whether real, personal or mixed;

27 (10) to establish a budget and make expenditures;

28 (11) to borrow money;

29 (12) to appoint committees, including advisory committees comprised
30 of administrators, state nursing regulators, state legislators or their
31 representatives, and consumer representatives, and other such interested
32 persons;

33 (13) to provide and receive information from, and to cooperate with,
34 law enforcement agencies;

35 (14) to adopt and use an official seal; and

36 (15) to perform such other functions as may be necessary or
37 appropriate to achieve the purposes of this compact consistent with the
38 state regulation of nurse licensure and practice.

39 (h) Financing of the commission:

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

43 (2) the commission may also levy on and collect an annual

1 assessment from each party state to cover the cost of its operations,
2 activities and staff in its annual budget as approved each year. The
3 aggregate annual assessment amount, if any, shall be allocated based upon
4 a formula to be determined by the commission, which shall promulgate a
5 rule that is binding upon all party states;

6 (3) the commission shall not incur obligations of any kind prior to
7 securing the funds adequate to meet the same, nor shall the commission
8 pledge the credit of any of the party states, except by and with the
9 authority of such party state; and

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

17 (i) Qualified immunity, defense and indemnification:

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

29 (2) The commission shall defend any administrator, officer, executive
30 director, employee or representative of the commission in any civil action
31 seeking to impose liability arising out of any actual or alleged act, error or
32 omission that occurred within the scope of commission employment,
33 duties or responsibilities, or that the person against whom the claim is
34 made had a reasonable basis for believing occurred within the scope of
35 commission employment, duties or responsibilities, provided that the
36 actual or alleged act, error or omission did not result from that person's
37 intentional, willful or wanton misconduct and provided further that
38 nothing herein shall be construed to prohibit that person from retaining
39 such person's own counsel.

40 (3) The commission shall indemnify and hold harmless any
41 administrator, officer, executive director, employee or representative of the
42 commission for the amount of any settlement or judgment obtained against
43 that person arising out of any actual or alleged act, error or omission that

1 occurred within the scope of commission employment, duties or
2 responsibilities, or that such person had a reasonable basis for believing
3 occurred within the scope of commission employment, duties or
4 responsibilities, provided that the actual or alleged act, error or omission
5 did not result from the intentional, willful or wanton misconduct of that
6 person.

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ARTICLE VIII
RULEMAKING

(a) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this article and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment and shall have the same force and effect as provisions of this compact.

(b) Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.

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

(1) On the website of the commission; and

(2) on the website of each licensing board or the publication in which each state would otherwise publish proposed rules.

(d) The notice of proposed rulemaking shall include:

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

(2) the text of the proposed rule or amendment, and the reason for the proposed rule;

(3) a request for comments on the proposed rule from any interested person; and

(4) the manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.

(e) Prior to adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions and arguments, which shall be made available to the public.

(f) The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment.

(g) The commission shall publish the place, time and date of the scheduled public hearing.

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

1 (2) Nothing in this article shall be construed as requiring a separate
 2 hearing on each rule. Rules may be grouped for the convenience of the
 3 commission at hearings required by this article.

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

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

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

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

- 20 (1) Meet an imminent threat to public health, safety or welfare;
- 21 (2) prevent a loss of commission or party state funds; or
- 22 (3) meet a deadline for the promulgation of an administrative rule that

23 is required by federal law or rule.
 24 (l) The commission may direct revisions to a previously adopted rule
 25 or amendment for purposes of correcting typographical errors, errors in
 26 format, errors in consistency or grammatical errors. Public notice of any
 27 revisions shall be posted on the website of the commission. The revision
 28 shall be subject to challenge by any person for a period of 30 days after
 29 posting. The revision may be challenged only on grounds that the revision
 30 results in a material change to a rule. A challenge shall be made in writing
 31 and delivered to the commission prior to the end of the notice period. If no
 32 challenge is made, the revision will take effect without further action. If
 33 the revision is challenged, the revision may not take effect without the
 34 approval of the commission.

35 ARTICLE IX

36 OVERSIGHT, DISPUTE RESOLUTION AND ENFORCEMENT

37 (a) Oversight:

38 (1) Each party state shall enforce this compact and take all actions
 39 necessary and appropriate to effectuate this compact's purposes and intent.

40 (2) The commission shall be entitled to receive service of process in
 41 any proceeding that may affect the powers, responsibilities or actions of
 42 the commission, and shall have standing to intervene in such a proceeding
 43 for all purposes. Failure to provide service of process in such proceeding

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

3 (b) Default, technical assistance and termination:

4 (1) If the commission determines that a party state has defaulted in
5 the performance of its obligations or responsibilities under this compact or
6 the promulgated rules, the commission shall:

7 (A) Provide written notice to the defaulting state and other party
8 states of the nature of the default, the proposed means of curing the default
9 or any other action to be taken by the commission; and

10 (B) provide remedial training and specific technical assistance
11 regarding the default.

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

18 (3) Termination of membership in this compact shall be imposed only
19 after all other means of securing compliance have been exhausted. notice
20 of intent to suspend or terminate shall be given by the commission to the
21 governor of the defaulting state and to the executive officer of the
22 defaulting state's licensing board and each of the party states.

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

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

31 (6) The defaulting state may appeal the action of the commission by
32 petitioning the U.S. District Court for the District of Columbia or the
33 federal district in which the commission has its principal offices. The
34 prevailing party shall be awarded all costs of such litigation, including
35 reasonable attorney fees.

36 (c) Dispute resolution:

37 (1) Upon request by a party state, the commission shall attempt to
38 resolve disputes related to the compact that arise among party states and
39 between party and non-party-states.

40 (2) The commission shall promulgate a rule providing for both
41 mediation and binding dispute resolution for disputes, as appropriate.

42 (3) In the event the commission cannot resolve disputes among party
43 states arising under this compact:

1 (A) The party states may submit the issues in dispute to an arbitration
2 panel, which will be comprised of individuals appointed by the compact
3 administrator in each of the affected party states and an individual
4 mutually agreed upon by the compact administrators of all the party states
5 involved in the dispute.

6 (B) The decision of a majority of the arbitrators shall be final and
7 binding.

8 (d) Enforcement:

9 (1) The commission, in the reasonable exercise of its discretion, shall
10 enforce the provisions and rules of this compact.

11 (2) By majority vote, the commission may initiate legal action in the
12 U.S. District Court for the District of Columbia or the federal district in
13 which the commission has its principal offices against a party state that is
14 in default to enforce compliance with the provisions of this compact and
15 its promulgated rules and bylaws. The relief sought may include both
16 injunctive relief and damages. In the event judicial enforcement is
17 necessary, the prevailing party shall be awarded all costs of such litigation,
18 including reasonable attorney fees.

19 (3) The remedies herein shall not be the exclusive remedies of the
20 commission. The commission may pursue any other remedies available
21 under federal or state law.

22 ARTICLE X

23 EFFECTIVE DATE, WITHDRAWAL AND AMENDMENT

24 (a) This compact shall become effective and binding on the earlier of
25 the date of legislative enactment of this compact into law by no less than
26 26 states or December 31, 2018. All party states to this compact that also
27 were parties to the prior nurse licensure compact superseded by this
28 compact, prior compact, shall be deemed to have withdrawn from such
29 prior compact within six months after the effective date of this compact.

30 (b) Each party state to this compact shall continue to recognize a
31 nurse's multistate licensure privilege to practice in that party state issued
32 under the prior compact until such party state has withdrawn from the
33 prior compact.

34 (c) Any party state may withdraw from this compact by enacting a
35 statute repealing the same. A party state's withdrawal shall not take effect
36 until six months after enactment of the repealing statute.

37 (d) A party state's withdrawal or termination shall not affect the
38 continuing requirement of the withdrawing or terminated state's licensing
39 board to report adverse actions and significant investigations occurring
40 prior to the effective date of such withdrawal or termination.

41 (e) Nothing contained in this compact shall be construed to invalidate
42 or prevent any nurse licensure agreement or other cooperative arrangement
43 between a party state and a non-party state that is made in accordance with

1 the other provisions of this compact.

2 (f) This compact may be amended by the party states. No amendment
3 to this compact shall become effective and binding upon the party states
4 unless and until it is enacted into the laws of all party states.

5 (g) Representatives of non-party states to this compact shall be
6 invited to participate in the activities of the commission, on a nonvoting
7 basis, prior to the adoption of this compact by all states.

8 ARTICLE XI
9 CONSTRUCTION AND SEVERABILITY

10 This compact shall be liberally construed so as to effectuate the
11 purposes thereof. The provisions of this compact shall be severable, and if
12 any phrase, clause, sentence or provision of this compact is declared to be
13 contrary to the constitution of any party state or of the United States, or if
14 the applicability thereof to any government, agency, person or
15 circumstance is held invalid, the validity of the remainder of this compact
16 and the applicability thereof to any government, agency, person or
17 circumstance shall not be affected thereby. If this compact shall be held to
18 be contrary to the constitution of any party state, this compact shall remain
19 in full force and effect as to the remaining party states and in full force and
20 effect as to the party state affected as to all severable matters.

21 Sec. 2. This act shall take effect and be in force from and after its
22 publication in the statute book.