

As Amended by House Committee

Session of 2018

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 **amending K.S.A. 65-1127 and K.S.A. 2017 Supp. 65-1113, 65-1117,**
4 **65-1118, 65-1120 and 74-1106 and repealing the existing sections.**

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 **New Section 1.** This ~~act~~ **section** shall be ~~known~~ **known** and may be
8 cited as the nurse licensure compact.

9 Nurse Licensure Compact

10 ARTICLE I

11 FINDINGS AND DECLARATION OF PURPOSE

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

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

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

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

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

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

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

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

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

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

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

36 (4) promote compliance with the laws governing the practice of

1 nursing in each jurisdiction;

2 (5) invest all party states with the authority to hold a nurse
3 accountable for meeting all state practice laws in the state in which the
4 patient is located at the time care is rendered through the mutual
5 recognition of party-state licenses;

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

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

10

ARTICLE II

11

DEFINITIONS

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As used in this compact:

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

21

22 (b) "Alternative program" means a nondisciplinary monitoring
23 program approved by a licensing board.

23

24 (c) "Commission" means the interstate commission of nurse licensure
25 compact administrators.

25

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

30

(e) "Current significant investigative information" means:

31

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

36

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

39

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

42

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

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

3 (i) "LPN/VN" means a licensed practical/vocational nurse.

4 (j) "Multistate license" means a license to practice as a registered or a
5 licensed practical/vocational nurse (LPN/VN) issued by a home state
6 licensing board that authorizes the licensed nurse to practice in all party
7 states under a multistate licensure privilege.

8 (k) "Multistate licensure privilege" means a legal authorization
9 associated with a multistate license permitting the practice of nursing as
10 either a registered nurse (RN) or LPN/VN in a remote state.

11 (l) "Nurse" means RN or LPN/VN, as those terms are defined by each
12 party state's practice laws.

13 (m) "Party state" means any state that has adopted this compact.

14 (n) "Remote state" means a party state, other than the home state.

15 (o) "RN" means a registered nurse.

16 (p) "Single-state license" means a nurse license issued by a party state
17 that authorizes practice only within the issuing state and does not include a
18 multistate licensure privilege to practice in any other party state.

19 (q) "State" means a state, territory or possession of the United States
20 and the District of Columbia.

21 (r) "State practice laws" means a party state's laws, rules and
22 regulations that govern the practice of nursing, define the scope of nursing
23 practice, and create the methods and grounds for imposing discipline. State
24 practice laws do not include requirements necessary to obtain and retain a
25 license, except for qualifications or requirements of the home state.

26 ARTICLE III

27 GENERAL PROVISIONS AND JURISDICTION

28 (a) A multistate license to practice registered or licensed
29 practical/vocational nursing issued by a home state to a resident in that
30 state will be recognized by each party state as authorizing a nurse to
31 practice as an RN or as an LPN/VN, under a multistate licensure privilege,
32 in each party state.

33 (b) A state must implement procedures for considering the criminal
34 history records of applicants for an initial multistate license or licensure by
35 endorsement. Such procedures shall include the submission of fingerprints
36 or other biometric-based information by applicants for the purpose of
37 obtaining an applicant's criminal history record information from the
38 federal bureau of investigation and the agency responsible for retaining
39 that state's criminal records.

40 (c) Each party state shall require the following for an applicant to
41 obtain or retain a multistate license in the home state:

42 (1) Has met the home state's qualifications for licensure or renewal of
43 licensure, as well as all other applicable state laws;

1 (2) (A) has graduated or is eligible to graduate from a licensing
2 board-approved RN or LPN/VN prelicensure education program; or

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

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

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

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

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

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

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

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

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

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

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

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

1 jurisdiction of the licensing board, the courts and the laws of the party
2 state in which the client is located at the time service is provided.

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

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

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

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

21 ARTICLE IV

22 APPLICATIONS FOR LICENSURE IN A PARTY STATE

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

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

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

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

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

1 (d) If a nurse changes primary state of residence by moving from a
2 party state to a nonparty state, the multistate license issued by the prior
3 home state will convert to a single-state license, valid only in the former
4 home state.

5 ARTICLE V
6 ADDITIONAL AUTHORITIES INVESTED
7 IN PARTY-STATE LICENSING BOARDS
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9 (a) In addition to the other powers conferred by state law, a licensing
10 board shall have the authority to:

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

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

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

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

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

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

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

1 (6) if otherwise permitted by state law, recover from the affected
2 nurse the costs of investigations and disposition of cases resulting from
3 any adverse action taken against that nurse; and

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

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

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

19 ARTICLE VI

20 COORDINATED LICENSURE INFORMATION 21 SYSTEM AND EXCHANGE OF INFORMATION 22

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

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

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

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

42 (e) Notwithstanding any other provision of law, all party-state
43 licensing boards contributing information to the coordinated licensure

1 information system may designate information, which may not be shared
2 with non-party states or disclosed to other entities or individuals without
3 the express permission of the contributing state.

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

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

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

- 16 (1) Identifying information;
- 17 (2) licensure data;
- 18 (3) information related to alternative program participation; and
- 19 (4) other information that may facilitate the administration of this
20 compact, as determined by commission rules.

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

23 ARTICLE VII

24 ESTABLISHMENT OF THE INTERSTATE COMMISSION 25 OF NURSE LICENSURE COMPACT ADMINISTRATORS

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

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

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

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

39 (b) Membership, voting and meetings:

40 (1) Each party-state shall have and be limited to one administrator.
41 The head of the state licensing board or designee shall be the administrator
42 of this compact for each party state. Any administrator may be removed or
43 suspended from office as provided by the laws of the state from which the

1 administrator is appointed. Any vacancy occurring in the commission shall
2 be filled in accordance with the laws of the party state in which the
3 vacancy exists.

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

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

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

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

18 (A) Noncompliance of a party state with its obligations under this
19 compact;

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

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

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

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

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

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

32 (H) disclosure of investigatory records compiled for law enforcement
33 purposes;

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

37 (J) matters specifically exempted from disclosure by federal or state
38 statute.

39 (6) If a meeting, or portion of a meeting, is closed pursuant to this
40 provision, the commission's legal counsel or designee shall certify that the
41 meeting may be closed and shall reference each relevant exempting
42 provision. The commission shall keep minutes that fully and clearly
43 describe all matters discussed in a meeting and shall provide a full and

1 accurate summary of actions taken, and the reasons therefor, including a
2 description of the views expressed. All documents considered in
3 connection with an action shall be identified in such minutes. All minutes
4 and documents of a closed meeting shall remain under seal, subject to
5 release by a majority vote of the commission or order of a court of
6 competent jurisdiction.

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

11 (1) Establishing the fiscal year of the commission;

12 (2) providing reasonable standards and procedures:

13 (A) For the establishment and meetings of other committees; and

14 (B) governing any general or specific delegation of any authority or
15 function of the commission;

16 (3) providing reasonable procedures for calling and conducting
17 meetings of the commission, ensuring reasonable advance notice of all
18 meetings and providing an opportunity for attendance of such meetings by
19 interested parties, with enumerated exceptions designed to protect the
20 public's interest, the privacy of individuals, and proprietary information,
21 including trade secrets. The commission may meet in closed session only
22 after a majority of the administrators vote to close a meeting in whole or in
23 part. As soon as practicable, the commission must make public a copy of
24 the vote to close the meeting revealing the vote of each administrator, with
25 no proxy votes allowed;

26 (4) establishing the titles, duties and authority and reasonable
27 procedures for the election of the officers of the commission;

28 (5) providing reasonable standards and procedures for the
29 establishment of the personnel policies and programs of the commission.
30 Notwithstanding any civil service or other similar laws of any party state,
31 the bylaws shall exclusively govern the personnel policies and programs of
32 the commission; and

33 (6) providing a mechanism for winding up the operations of the
34 commission and the equitable disposition of any surplus funds that may
35 exist after the termination of this compact after the payment or reserving
36 of all of its debts and obligations.

37 (d) The commission shall publish its bylaws and rules, and any
38 amendments thereto, in a convenient form on the website of the
39 commission.

40 (e) The commission shall maintain its financial records in accordance
41 with the bylaws.

42 (f) The commission shall meet and take such actions as are consistent
43 with the provisions of this compact and the bylaws.

1 (g) The commission shall have the following powers:

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

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

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

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

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

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

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

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

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

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

30 (11) to borrow money;

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

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

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

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

41 (h) Financing of the commission:

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

1 activities;

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

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

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

19 (i) Qualified immunity, defense and indemnification:

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

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

42 (3) The commission shall indemnify and hold harmless any
43 administrator, officer, executive director, employee or representative of the

1 commission for the amount of any settlement or judgment obtained against
2 that person arising out of any actual or alleged act, error or omission that
3 occurred within the scope of commission employment, duties or
4 responsibilities, or that such person had a reasonable basis for believing
5 occurred within the scope of commission employment, duties or
6 responsibilities, provided that the actual or alleged act, error or omission
7 did not result from the intentional, willful or wanton misconduct of that
8 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

1 orally or in writing. All hearings will be recorded, and a copy will be made
2 available upon request.

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

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

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

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

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

22 (1) Meet an imminent threat to public health, safety or welfare;

23 (2) prevent a loss of commission or party state funds; or

24 (3) meet a deadline for the promulgation of an administrative rule that
25 is required by federal law or rule.

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

37 ARTICLE IX

38 OVERSIGHT, DISPUTE RESOLUTION AND ENFORCEMENT

39 (a) Oversight:

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

42 (2) The commission shall be entitled to receive service of process in
43 any proceeding that may affect the powers, responsibilities or actions of

1 the commission, and shall have standing to intervene in such a proceeding
2 for all purposes. Failure to provide service of process in such proceeding
3 to the commission shall render a judgment or order void as to the
4 commission, this compact or promulgated rules.

5 (b) Default, technical assistance and termination:

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

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

12 (B) provide remedial training and specific technical assistance
13 regarding the default.

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

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

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

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

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

38 (c) Dispute resolution:

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

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

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

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

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

10 (d) Enforcement:

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

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

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

24 ARTICLE X

25 EFFECTIVE DATE, WITHDRAWAL AND AMENDMENT

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

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

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

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

43 (e) Nothing contained in this compact shall be construed to invalidate

1 or prevent any nurse licensure agreement or other cooperative arrangement
2 between a party state and a non-party state that is made in accordance with
3 the other provisions of this compact.

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

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

10 ARTICLE XI

11 CONSTRUCTION AND SEVERABILITY

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

23 **Sec. 2. K.S.A. 2017 Supp. 65-1113 is hereby amended to read as**
24 **follows: 65-1113. When used in this act and the act of which this**
25 **section is amendatory:**

26 (a) "Board" means the board of nursing.

27 (b) "Diagnosis" in the context of nursing practice means that
28 identification of and discrimination between physical and psychosocial
29 signs and symptoms essential to effective execution and management
30 of the nursing regimen and shall be construed as distinct from a
31 medical diagnosis.

32 (c) "Treatment" means the selection and performance of those
33 therapeutic measures essential to effective execution and management
34 of the nursing regimen, and any prescribed medical regimen.

35 (d) *Practice of nursing.* (1) The practice of professional nursing as
36 performed by a registered professional nurse for compensation or
37 gratuitously, except as permitted by K.S.A. 65-1124, and amendments
38 thereto, means the process in which substantial specialized knowledge
39 derived from the biological, physical, and behavioral sciences is
40 applied to: the care, diagnosis, treatment, counsel and health teaching
41 of persons who are experiencing changes in the normal health
42 processes or who require assistance in the maintenance of health or
43 the prevention or management of illness, injury or infirmity;

1 administration, supervision or teaching of the process as defined in
2 this section; and the execution of the medical regimen as prescribed by
3 a person licensed to practice medicine and surgery or a person
4 licensed to practice dentistry.

5 (2) The practice of nursing as a licensed practical nurse means the
6 performance for compensation or gratuitously, except as permitted by
7 K.S.A. 65-1124, and any amendments thereto, of tasks and
8 responsibilities defined in ~~part paragraph (1) of this subsection (d),~~
9 which tasks and responsibilities are based on acceptable educational
10 preparation within the framework of supportive and restorative care
11 under the direction of a registered professional nurse, a person
12 licensed to practice medicine and surgery or a person licensed to
13 practice dentistry.

14 (e) A "professional nurse" means a person who is licensed to
15 practice professional nursing as defined in ~~part (1) of subsection (d)(1)~~
16 ~~of this section.~~

17 (f) A "practical nurse" means a person who is licensed to practice
18 practical nursing as defined in ~~part (2) of subsection (d)(2) of this~~
19 ~~section.~~

20 (g) "Advanced practice registered nurse" or "APRN" means a
21 professional nurse who holds a license from the board to function as a
22 professional nurse in an advanced role, and this advanced role shall be
23 defined by rules and regulations adopted by the board in accordance
24 with K.S.A. 65-1130, and amendments thereto.

25 (h) *"Continuing nursing education" means learning experiences*
26 *intended to build upon the educational and experiential bases of the*
27 *registered professional and licensed practical nurse for the enhancement*
28 *of practice, education, administration, research or theory development to*
29 *the end of improving the health of the public.*

30 **Sec. 3. K.S.A. 2017 Supp. 65-1117 is hereby amended to read as**
31 **follows: 65-1117. (a) All licenses issued under the provisions of this act,**
32 **whether initial or renewal, including multi-state licenses under the nurse**
33 **licensure compact, shall expire every two years. The expiration date**
34 **shall be established by the rules and regulations of the board. Any**
35 **licensed nurse may file a multi-state license application together with the**
36 **prescribed multi-state license fee at any time the nurse holds an active**
37 **license. The board shall send a notice for renewal of license to every**
38 **registered professional nurse and licensed practical nurse at least 60**
39 **days prior to the expiration date of such person's license. Every**
40 **person so licensed who desires to renew such license shall file with the**
41 **board, on or before the date of expiration of such license, a renewal**
42 **application together with the prescribed biennial renewal fee. Every**
43 **licensee who is no longer engaged in the active practice of nursing may**

1 so state by affidavit and submit such affidavit with the renewal
2 application. An inactive license may be requested along with payment
3 of a fee which shall be fixed by rules and regulations of the board.
4 Except for the first renewal for a license that expires within 30 months
5 following licensure examination or for renewal of a license that expires
6 within the first nine months following licensure by reinstatement or
7 endorsement, every licensee with an active nursing license shall
8 submit with the renewal application evidence of satisfactory
9 completion of a program of continuing nursing education required by
10 the board. The board by duly adopted rules and regulations shall
11 establish the requirements for such program of continuing nursing
12 education. ~~Continuing nursing education means learning experiences~~
13 ~~intended to build upon the educational and experiential bases of the~~
14 ~~registered professional and licensed practical nurse for the enhancement of~~
15 ~~practice, education, administration, research or theory development to the~~
16 ~~end of improving the health of the public. Upon receipt of such~~
17 ~~application, payment of fee, upon receipt of the evidence of~~
18 ~~satisfactory completion of the required program of continuing nursing~~
19 ~~education and upon being satisfied that the applicant meets the~~
20 ~~requirements set forth in K.S.A. 65-1115 or 65-1116, and amendments~~
21 ~~thereto, in effect at the time of initial licensure of the applicant, the~~
22 ~~board shall verify the accuracy of the application and grant a renewal~~
23 ~~license.~~

24 (b) Any person who fails to secure a renewal license within the
25 time specified herein may secure a reinstatement of such lapsed license
26 by making verified application therefor on a form provided by the
27 board, by rules and regulations, and upon furnishing proof that the
28 applicant is competent and qualified to act as a registered professional
29 nurse or licensed practical nurse and by satisfying all of the
30 requirements for reinstatement including payment to the board of a
31 reinstatement fee as established by the board. A reinstatement
32 application for licensure will be held awaiting completion of such
33 documentation as may be required, but such application shall not be
34 held for a period of time in excess of that specified in rules and
35 regulations.

36 (c) ~~Any person whose license as a registered professional nurse has~~
37 ~~lapsed for a period of more than 13 years beyond its expiration date and~~
38 ~~who has been employed for at least 10 of the last 13 years in an allied~~
39 ~~health profession which employment required substantially comparable~~
40 ~~patient care to that of care provided by a registered professional nurse may~~
41 ~~apply for reinstatement as a registered professional nurse and shall not be~~
42 ~~required to complete a refresher course as established by the board, but~~
43 ~~shall be reinstated as a registered professional nurse by the board upon~~

~~1 application to the board for reinstatement of such license on a form
 2 provided by the board, upon presentation to the board of an affidavit from
 3 such person detailing such person's work history, upon determination by
 4 the board that the work history with regard to patient care is substantially
 5 comparable to patient care provided by a registered professional nurse,
 6 upon determination by the board that such person is otherwise qualified to
 7 be licensed as a registered professional nurse and upon paying to the board
 8 the reinstatement fee established by the board. This subsection shall expire
 9 on January 1, 2012.~~

10 ~~(d)~~ **(1) Each licensee shall notify the board in writing of (A) a**
 11 **change in name or address within 30 days of the change or (B) a**
 12 **conviction of any felony or misdemeanor, that is specified in rules and**
 13 **regulations adopted by the board, within 30 days from the date the**
 14 **conviction becomes final.**

15 **(2) As used in this subsection, "conviction" means a final**
 16 **conviction without regard to whether the sentence was suspended or**
 17 **probation granted after such conviction. Also, for the purposes of this**
 18 **subsection, a forfeiture of bail, bond or collateral deposited to secure a**
 19 **defendant's appearance in court, which forfeiture has not been**
 20 **vacated, shall be equivalent to a conviction. Failure to so notify the**
 21 **board shall not constitute a defense in an action relating to failure to**
 22 **renew a license, nor shall it constitute a defense in any other**
 23 **proceeding.**

24 *(d) Every person who holds a multi-state license under the nurse*
 25 *licensure compact and who engages in the practice of nursing in Kansas*
 26 *shall notify the board of the person's address and other matters as may be*
 27 *required by the board. The notification shall be in a manner as required by*
 28 *the board. The board shall adopt rules and regulations to implement the*
 29 *provisions of this subsection.*

30 **Sec. 4. K.S.A. 2017 Supp. 65-1118 is hereby amended to read as**
 31 **follows: 65-1118. (a) The board shall collect in advance fees provided**
 32 **for in this act as fixed by the board, but not exceeding:**

33	Application for single-state license—professional nurse.....	\$75 \$150
34	Application for single-state license—practical nurse.....	50 100
35	Application for single-state biennial renewal of license—professional	
36	nurse and practical nurse.....	60 120
37	Application for single-state reinstatement of license.....	70 150
38	Application for single-state reinstatement of licenses with temporary	
39	permit.....	100 175
40	<i>Application for multi-state license—professional nurse.....</i>	<i>300</i>
41	<i>Application for multi-state license—practical nurse.....</i>	<i>300</i>
42	<i>Application for multi-state biennial renewal of license—</i>	
43	<i>professional nurse and practical nurse.....</i>	<i>200</i>

1	<i>Application for multi-state reinstatement of license.....</i>	300
2	<i>Application for multi-state reinstatement of licenses</i>	
3	<i>with temporary permit.....</i>	300
4	Application for reinstatement of revoked license.....	1,000
5	Certified copy of license.....	25
6	Duplicate of license.....	25
7	Inactive license.....	20
8	Application for license—advanced practice registered	
9	nurse.....	50
10	Application for license with temporary permit—advanced	
11	practice registered nurse.....	100
12	Application for renewal of license—advanced practice	
13	registered nurse.....	60
14	Application for reinstatement of license—advanced practice	
15	registered nurse.....	75
16	Application for authorization—registered nurse	
17	anesthetist.....	75
18	Application for authorization with temporary authorization—	
19	registered nurse anesthetist.....	110
20	Application for biennial renewal of authorization—registered	
21	nurse anesthetist.....	60
22	Application for reinstatement of authorization—registered	
23	nurse anesthetist.....	75
24	Application for reinstatement of authorization with temporary	
25	authorization—registered nurse anesthetist.....	100
26	Verification of license to another state.....	30
27	Application for exempt license—professional and practical	
28	nurse.....	50
29	Application for biennial renewal of exempt license—	
30	professional and practical nurse.....	50
31	Application for exempt license—advanced practice registered	
32	nurse.....	50
33	Application for biennial renewal of exempt license—advanced	
34	practice registered nurse.....	50
35	(b) The board may require that fees paid for any examination	
36	under the Kansas nurse practice act be paid directly to the	
37	examination service by the person taking the examination.	
38	(c) The board shall accept for payment of fees under this section	
39	personal checks, certified checks, cashier's checks, money orders or	
40	credit cards. The board may designate other methods of payment, but	
41	shall not refuse payment in the form of a personal check. The board	
42	may impose additional fees and recover any costs incurred by reason	
43	of payments made by personal checks with insufficient funds and	

1 payments made by credit cards.

2 Sec. 5. K.S.A. 2017 Supp. 65-1120 is hereby amended to read as
3 follows: 65-1120. (a) *Grounds for disciplinary actions.* The board may
4 deny, revoke, limit or suspend any license or authorization to practice
5 nursing as a registered professional nurse, as a licensed practical
6 nurse, as an advanced practice registered nurse or as a registered
7 nurse anesthetist that is issued by the board or applied for under this
8 act, or may require the licensee to attend a specific number of hours of
9 continuing education in addition to any hours the licensee may already be
10 required to attend or may publicly or privately censure a licensee or
11 holder of a temporary permit or authorization, if the applicant,
12 licensee or holder of a temporary permit or authorization is found
13 after hearing:

14 (1) To be guilty of fraud or deceit in practicing nursing or in
15 procuring or attempting to procure a license to practice nursing;

16 (2) to have been guilty of a felony or to have been guilty of a
17 misdemeanor involving an illegal drug offense unless the applicant or
18 licensee establishes sufficient rehabilitation to warrant the public
19 trust, except that notwithstanding K.S.A. 74-120, and amendments
20 thereto, no license or authorization to practice nursing as a licensed
21 professional nurse, as a licensed practical nurse, as an advanced
22 practice registered nurse or registered nurse anesthetist shall be
23 granted to a person with a felony conviction for a crime against
24 persons as specified in article 34 of chapter 21 of the Kansas Statutes
25 Annotated, prior to their repeal, or article 54 of chapter 21 of the
26 Kansas Statutes annotated, or K.S.A. 2017 Supp. 21-6104, 21-6325, 21-
27 6326 or 21-6418, and amendments thereto;

28 (3) *has been convicted or found guilty or has entered into an agreed*
29 *disposition of a misdemeanor offense related to the practice of nursing as*
30 *determined on a case-by-case basis;*

31 (4) to have committed an act of professional incompetency as
32 defined in subsection (e);

33 ~~(4)~~(5) to be unable to practice with skill and safety due to current
34 abuse of drugs or alcohol;

35 ~~(5)~~(6) to be a person who has been adjudged in need of a
36 guardian or conservator, or both, under the act for obtaining a
37 guardian or conservator, or both, and who has not been restored to
38 capacity under that act;

39 ~~(6)~~(7) to be guilty of unprofessional conduct as defined by rules
40 and regulations of the board;

41 ~~(7)~~(8) to have willfully or repeatedly violated the provisions of the
42 Kansas nurse practice act or any rules and regulations adopted
43 pursuant to that act, including K.S.A. 65-1114 and 65-1122, and

1 amendments thereto;

2 ~~(8)~~(9) to have a license to practice nursing as a registered nurse or
3 as a practical nurse denied, revoked, limited or suspended, or to be
4 publicly or privately censured, by a licensing authority of another
5 state, agency of the United States government, territory of the United
6 States or country or to have other disciplinary action taken against the
7 applicant or licensee by a licensing authority of another state, agency
8 of the United States government, territory of the United States or
9 country. A certified copy of the record or order of public or private
10 censure, denial, suspension, limitation, revocation or other
11 disciplinary action of the licensing authority of another state, agency
12 of the United States government, territory of the United States or
13 country shall constitute prima facie evidence of such a fact for
14 purposes of this paragraph-~~(8)~~ (9); or

15 ~~(9)~~(10) to have assisted suicide in violation of K.S.A. 21-3406,
16 prior to its repeal, or K.S.A. 2017 Supp. 21-5407, and amendments
17 thereto, as established by any of the following:

18 (A) A copy of the record of criminal conviction or plea of guilty
19 for a felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A.
20 2017 Supp. 21-5407, and amendments thereto.

21 (B) A copy of the record of a judgment of contempt of court for
22 violating an injunction issued under K.S.A. 2017 Supp. 60-4404, and
23 amendments thereto.

24 (C) A copy of the record of a judgment assessing damages under
25 K.S.A. 2017 Supp. 60-4405, and amendments thereto.

26 (b) *Proceedings.* Upon filing of a sworn complaint with the board
27 charging a person with having been guilty of any of the unlawful
28 practices specified in subsection (a), two or more members of the
29 board shall investigate the charges, or the board may designate and
30 authorize an employee or employees of the board to conduct an
31 investigation. After investigation, the board may institute charges. If
32 an investigation, in the opinion of the board, reveals reasonable
33 grounds for believing the applicant or licensee is guilty of the charges,
34 the board shall fix a time and place for proceedings, which shall be
35 conducted in accordance with the provisions of the Kansas
36 administrative procedure act.

37 (c) *Witnesses.* No person shall be excused from testifying in any
38 proceedings before the board under this act or in any civil proceedings
39 under this act before a court of competent jurisdiction on the ground
40 that such testimony may incriminate the person testifying, but such
41 testimony shall not be used against the person for the prosecution of
42 any crime under the laws of this state except the crime of perjury as
43 defined in K.S.A. 2017 Supp. 21-5903, and amendments thereto.

1 (d) *Costs.* If final agency action of the board in a proceeding
2 under this section is adverse to the applicant or licensee, the costs of
3 the board's proceedings shall be charged to the applicant or licensee
4 as in ordinary civil actions in the district court, but if the board is the
5 unsuccessful party, the costs shall be paid by the board. Witness fees
6 and costs may be taxed by the board according to the statutes relating
7 to procedure in the district court. All costs accrued by the board, when
8 it is the successful party, and which the attorney general certifies
9 cannot be collected from the applicant or licensee shall be paid from
10 the board of nursing fee fund. All moneys collected following board
11 proceedings shall be credited in full to the board of nursing fee fund.

12 (e) *Professional incompetency defined.* As used in this section,
13 "professional incompetency" means:

14 (1) One or more instances involving failure to adhere to the
15 applicable standard of care to a degree which constitutes gross
16 negligence, as determined by the board;

17 (2) repeated instances involving failure to adhere to the
18 applicable standard of care to a degree which constitutes ordinary
19 negligence, as determined by the board; or

20 (3) a pattern of practice or other behavior which demonstrates a
21 manifest incapacity or incompetence to practice nursing.

22 (f) *Criminal justice information.* The board upon request shall
23 receive from the Kansas bureau of investigation such criminal history
24 record information relating to arrests and criminal convictions as
25 necessary for the purpose of determining initial and continuing
26 qualifications of licensees of and applicants for licensure by the board.

27 Sec. 6. K.S.A. 65-1127 is hereby amended to read as follows: 65-
28 1127. (a) *A licensee shall report to the board of nursing any information*
29 *the licensee may have relating to alleged incidents of malpractice or the*
30 *qualifications, fitness or character of a person licensed to practice*
31 *professional nursing or licensed to practice practical nursing, including*
32 *persons holding a multi-state license under the nurse licensure compact.*
33 **No person reporting to the board of nursing under oath and in good**
34 **faith any information such person may have relating to alleged**
35 **incidents of malpractice or the qualifications, fitness or character of a**
36 **person licensed to practice professional nursing or licensed to practice**
37 **practical nursing shall be subject to a civil action for damages as a**
38 **result of reporting such information.**

39 (b) Any state, regional or local association of registered
40 professional nurses or licensed practical nurses and the individual
41 members of any committee thereof, which in good faith investigates or
42 communicates information pertaining to the alleged incidents of
43 malpractice or the qualifications, fitness or character of any licensee

1 or registrant to the board of nursing or to any committee or agent
2 thereof, shall be immune from liability in any civil action, that is based
3 upon such information or transmittal of information if the
4 investigation and communication was made in good faith and did not
5 represent as true any matter not reasonably believed to be true.

6 Sec. 7. K.S.A. 2017 Supp. 74-1106 is hereby amended to read as
7 follows: 74-1106. (a) *Appointment, term of office.* (1) The governor shall
8 appoint a board consisting of 11 members of which six shall be
9 registered professional nurses, two shall be licensed practical nurses
10 and three shall be members of the general public, which shall
11 constitute a board of nursing, with the duties, power and authority set
12 forth in this act.

13 (2) Upon the expiration of the term of any registered professional
14 nurse, the Kansas state nurses association shall submit to the governor
15 a list of registered professional nurses containing names of not less
16 than three times the number of persons to be appointed, and
17 appointments shall be made after consideration of such list for terms
18 of four years and until a successor is appointed and qualified.

19 (3) On the effective date of this act, the Kansas federation of
20 licensed practical nurses shall submit to the governor a list of licensed
21 practical nurses containing names of not less than three times the
22 number of persons to be appointed, and appointments shall be made
23 after consideration of such list for a term of four years and until a
24 successor is appointed and qualified.

25 (4) Each member of the general public shall be appointed for a
26 term of four years and successors shall be appointed for a like term.

27 (5) Whenever a vacancy occurs on the board of nursing, it shall
28 be filled by appointment for the remainder of the unexpired term in
29 the same manner as the preceding appointment. No person shall serve
30 more than two consecutive terms as a member of the board of nursing
31 and appointment for the remainder of an unexpired term shall
32 constitute a full term of service on such board.

33 (b) *Qualifications of members.* Each member of the board shall be
34 a citizen of the United States and a resident of the state of Kansas.
35 Registered professional nurse members shall possess a license to
36 practice as a professional nurse in this state with at least five years'
37 experience in nursing as such and shall be actively engaged in
38 professional nursing in Kansas at the time of appointment and
39 reappointment. The licensed practical nurse members shall be
40 licensed to practice practical nursing in the state with at least five
41 years' experience in practical nursing and shall be actively engaged in
42 practical nursing in Kansas at the time of appointment and
43 reappointment. The governor shall appoint successors so that the

1 registered professional nurse membership of the board shall consist of
2 at least two members who are engaged in nursing service, at least two
3 members who are engaged in nursing education and at least one
4 member who is engaged in practice as an advanced practice registered
5 nurse or a registered nurse anesthetist. The consumer members shall
6 represent the interests of the general public. At least one consumer
7 member shall not have been involved in providing health care. Each
8 member of the board shall take and subscribe the oath prescribed by
9 law for state officers, which oath shall be filed with the secretary of
10 state.

11 (c) *Duties and powers.* (1) The board shall meet annually at
12 Topeka during the month of September and shall elect from its
13 members a president, vice-president and secretary, each of whom shall
14 hold their respective offices for one year. The board shall employ an
15 executive administrator, who shall be a registered professional nurse,
16 who shall not be a member of the board and who shall be in the
17 unclassified service under the Kansas civil service act, and shall
18 employ such other employees, who shall be in the classified service
19 under the Kansas civil service act as necessary to carry on the work of
20 the board. *The information technology and operational staff shall remain*
21 *employees of the board.* As necessary, the board shall be represented by
22 an attorney appointed by the attorney general as provided by law,
23 whose compensation shall be determined and paid by the board with
24 the approval of the governor. The board may hold such other meetings
25 during the year as may be deemed necessary to transact its business.

26 (2) The board shall adopt rules and regulations consistent with
27 this act necessary to carry into effect the provisions thereof, and such
28 rules and regulations may be published and copies thereof furnished
29 to any person upon application.

30 (3) The board shall prescribe curricula and standards for
31 professional and practical nursing programs and mental health
32 technician programs, and provide for surveys of such schools and
33 courses at such times as it may deem necessary. It shall accredit such
34 schools and approve courses as meet the requirements of the
35 appropriate act and rules and regulations of the board.

36 (4) The board shall examine, license and renew licenses of duly
37 qualified applicants and conduct hearings upon charges for limitation,
38 suspension or revocation of a license or approval of professional and
39 practical nursing and mental health technician programs and may
40 limit, deny, suspend or revoke for proper legal cause, licenses or
41 approval of professional and practical nursing and mental health
42 technician programs, as hereinafter provided. Examination for
43 applicants for registration shall be given at least twice each year and

1 as many other times as deemed necessary by the board. The board
2 shall promote improved means of nursing education and standards of
3 nursing care through institutes, conferences and other means.

4 (5) The board shall have a seal of which the executive
5 administrator shall be the custodian. The president and the secretary
6 shall have the power and authority to administer oaths in transacting
7 business of the board, and the secretary shall keep a record of all
8 proceedings of the board and a register of professional and practical
9 nurses and mental health technicians licensed and showing the
10 certificates of registration or licenses granted or revoked, which
11 register shall be open at all times to public inspection.

12 (6) The board may enter into contracts as may be necessary to
13 carry out its duties.

14 (7) The board is hereby authorized to apply for and to accept
15 grants and may accept donations, bequests or gifts. The board shall
16 remit all moneys received by it under this paragraph (7) to the state
17 treasurer in accordance with the provisions of K.S.A. 75-4215, and
18 amendments thereto. Upon receipt of each such remittance, the state
19 treasurer shall deposit the entire amount in the state treasury to the
20 credit of the grants and gifts fund which is hereby created. All
21 expenditures from such fund shall be made in accordance with
22 appropriation acts upon warrants of the director of accounts and
23 reports issued pursuant to vouchers approved by the president of the
24 board or a person designated by the president.

25 (8) A majority of the board of nursing including two professional
26 nurse members shall constitute a quorum for the transaction of
27 business.

28 (d) *Subpoenas.* In all investigations and proceedings, the board
29 shall have the power to issue subpoenas and compel the attendance of
30 witnesses and the production of all relevant and necessary papers,
31 books, records, documentary evidence and materials. Any person
32 failing or refusing to appear or testify regarding any matter about
33 which such person may be lawfully questioned or to produce any
34 books, papers, records, documentary evidence or relevant materials in
35 the matter, after having been required by order of the board or by a
36 subpoena of the board to do so, upon application by the board to any
37 district judge in the state, may be ordered by such judge to comply
38 therewith. Upon failure to comply with the order of the district judge,
39 the court may compel obedience by attachment for contempt as in the
40 case of disobedience of a similar order or subpoena issued by the
41 court. A subpoena may be served upon any person named therein
42 anywhere within the state with the same fees and mileage by an officer
43 authorized to serve subpoenas in civil actions in the same procedure as

1 is prescribed by the code of civil procedure for subpoenas issued out of
2 the district courts of this state.

3 (e) *Compensation and expenses.* Members of the board of nursing
4 attending meetings of such board, or attending a subcommittee
5 meeting thereof authorized by such board, shall be paid
6 compensation, subsistence allowances, mileage and other expenses as
7 provided in K.S.A. 75-3223, and amendments thereto. No member of
8 the board of nursing shall be paid an amount as provided in K.S.A.
9 75-3223, and amendments thereto, if such member receives an amount
10 from another governmental or private entity for the purpose for which
11 such amount is payable under K.S.A. 75-3223, and amendments
12 thereto.

13 Sec. 8. K.S.A. 65-1127 and K.S.A. 2017 Supp. 65-1113, 65-1117,
14 65-1118, 65-1120 and 74-1106 are hereby repealed.

15 Sec. ~~2~~ 9. This act shall take effect and be in force from and after July
16 1, 2019, and its publication in the statute book.