

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

1 areas of nurse regulation, investigation and adverse actions;

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

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

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

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

12 ARTICLE II
13 DEFINITIONS

14 As used in this compact:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 ARTICLE III

29 GENERAL PROVISIONS AND JURISDICTION

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

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

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

- 1 (1) Has met the home state's qualifications for licensure or renewal of
2 licensure, as well as all other applicable state laws;
- 3 (2) (A) has graduated or is eligible to graduate from a licensing
4 board-approved RN or LPN/VN prelicensure education program; or
5 (B) has graduated from a foreign RN or LPN/VN prelicensure
6 education program that: (i) Has been approved by the authorized
7 accrediting body in the applicable country; and (ii) has been verified by an
8 independent credentials review agency to be comparable to a licensing
9 board-approved prelicensure education program;
- 10 (3) has, if a graduate of a foreign prelicensure education program, not
11 taught in English or, if English is not the individual's native language,
12 successfully passed an English proficiency examination that includes the
13 components of reading, speaking, writing and listening;
- 14 (4) has successfully passed an NCLEX-RN or NCLEX-PN
15 examination or recognized predecessor, as applicable;
- 16 (5) is eligible for or holds an active unencumbered license;
- 17 (6) has submitted, in connection with an application for initial
18 licensure or licensure by endorsement, fingerprints or other biometric data
19 for the purpose of obtaining criminal history record information from the
20 federal bureau of investigation and the Kansas bureau of investigation;
- 21 (7) has not been convicted or found guilty or has entered into an
22 agreed disposition of a felony offense under applicable state or federal
23 criminal law;
- 24 (8) has not been convicted or found guilty or has entered into an
25 agreed disposition of a misdemeanor offense related to the practice of
26 nursing as determined on a case-by-case basis;
- 27 (9) is not currently enrolled in an alternative program;
- 28 (10) is subject to self-disclosure requirements regarding current
29 participation in an alternative program; and
- 30 (11) has a valid United States social security number.
- 31 (d) All party states shall be authorized, in accordance with existing
32 state due process law, to take adverse action against a nurse's multistate
33 licensure privilege, such as revocation, suspension, probation or any other
34 action that affects a nurse's authorization to practice under a multistate
35 licensure privilege, including cease and desist actions. If a party state takes
36 such action, it shall promptly notify the administrator of the coordinated
37 licensure information system. The administrator of the coordinated
38 licensure information system shall promptly notify the home state of any
39 such actions by remote states.
- 40 (e) A nurse practicing in a party state must comply with the state
41 practice laws of the state in which the client is located at the time service is
42 provided. The practice of nursing is not limited to patient care, but shall
43 include all nursing practice as defined by the state practice laws of the

1 party state in which the client is located. The practice of nursing in a party
2 state under a multistate licensure privilege will subject a nurse to the
3 jurisdiction of the licensing board, the courts and the laws of the party
4 state in which the client is located at the time service is provided.

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

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

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

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

23 ARTICLE IV

24 APPLICATIONS FOR LICENSURE IN A PARTY STATE

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

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

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

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

42 (2) A multistate license shall not be issued by the new home state
43 until the nurse provides satisfactory evidence of a change in primary state

1 of residence to the new home state and satisfies all applicable requirements
2 to obtain a multistate license from the new home state.

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

7 ARTICLE V

8 ADDITIONAL AUTHORITIES INVESTED

9 IN PARTY-STATE LICENSING BOARDS

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

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

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

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

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

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

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

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

1 results in making licensure decisions;

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

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

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

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

20 ARTICLE VI

21 COORDINATED LICENSURE INFORMATION 22 SYSTEM AND EXCHANGE OF INFORMATION

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

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

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

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

38 (b) Membership, voting and meetings:

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

1 be filled in accordance with the laws of the party state in which the
2 vacancy exists.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (2) providing reasonable standards and procedures:

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

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

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

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

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

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

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

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

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

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

- 1 (1) To promulgate uniform rules to facilitate and coordinate
2 implementation and administration of this compact. The rules shall have
3 the force and effect of law and shall be binding in all party states;
- 4 (2) to bring and prosecute legal proceedings or actions in the name of
5 the commission, provided that the standing of any licensing board to sue or
6 be sued under applicable law shall not be affected;
- 7 (3) to purchase and maintain insurance and bonds;
- 8 (4) to borrow, accept or contract for services of personnel, including,
9 but not limited to, employees of a party state or nonprofit organizations;
- 10 (5) to cooperate with other organizations that administer state
11 compacts related to the regulation of nursing, including, but not limited to,
12 sharing administrative or staff expenses, office space or other resources;
- 13 (6) to hire employees, elect or appoint officers, fix compensation,
14 define duties, grant such individuals appropriate authority to carry out the
15 purposes of this compact, and to establish the commission's personnel
16 policies and programs relating to conflicts of interest, qualifications of
17 personnel and other related personnel matters;
- 18 (7) to accept any and all appropriate donations, grants and gifts of
19 money, equipment, supplies, materials and services, and to receive, utilize
20 and dispose of the same, provided that at all times the commission shall
21 avoid any appearance of impropriety or conflict of interest;
- 22 (8) to lease, purchase, accept appropriate gifts or donations of, or
23 otherwise to own, hold, improve or use, any property, whether real,
24 personal or mixed, provided that at all times the commission shall avoid
25 any appearance of impropriety;
- 26 (9) to sell, convey, mortgage, pledge, lease, exchange, abandon or
27 otherwise dispose of any property, whether real, personal or mixed;
- 28 (10) to establish a budget and make expenditures;
- 29 (11) to borrow money;
- 30 (12) to appoint committees, including advisory committees comprised
31 of administrators, state nursing regulators, state legislators or their
32 representatives, and consumer representatives, and other such interested
33 persons;
- 34 (13) to provide and receive information from, and to cooperate with,
35 law enforcement agencies;
- 36 (14) to adopt and use an official seal; and
- 37 (15) to perform such other functions as may be necessary or
38 appropriate to achieve the purposes of this compact consistent with the
39 state regulation of nurse licensure and practice.
- 40 (h) Financing of the commission:
 - 41 (1) The commission shall pay, or provide for the payment of, the
42 reasonable expenses of its establishment, organization and ongoing
43 activities;

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

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

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

18 (i) Qualified immunity, defense and indemnification:

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

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

41 (3) The commission shall indemnify and hold harmless any
42 administrator, officer, executive director, employee or representative of the
43 commission for the amount of any settlement or judgment obtained against

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

8 ARTICLE VIII
9 RULEMAKING

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

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

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

21 (1) On the website of the commission; and

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

24 (d) The notice of proposed rulemaking shall include:

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

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

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

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

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

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

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

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

1 available upon request.

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

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

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

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

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

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

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

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

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

36 ARTICLE IX

37 OVERSIGHT, DISPUTE RESOLUTION AND ENFORCEMENT

38 (a) Oversight:

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

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

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

4 (b) Default, technical assistance and termination:

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

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

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

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

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

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

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

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

37 (c) Dispute resolution:

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

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

43 (3) In the event the commission cannot resolve disputes among party

1 states arising under this compact:

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

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

9 (d) Enforcement:

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

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

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

23 ARTICLE X

24 EFFECTIVE DATE, WITHDRAWAL AND AMENDMENT

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

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

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

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

42 (e) Nothing contained in this compact shall be construed to invalidate
43 or prevent any nurse licensure agreement or other cooperative arrangement

1 between a party state and a non-party state that is made in accordance with
2 the other provisions of this compact.

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

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

9 ARTICLE XI

10 CONSTRUCTION AND SEVERABILITY

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

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

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

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

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

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

1 this section; and the execution of the medical regimen as prescribed by
2 a person licensed to practice medicine and surgery or a person
3 licensed to practice dentistry.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 ~~**(4)(5) to be unable to practice with skill and safety due to current**~~
33 ~~**abuse of drugs or alcohol;**~~

34 ~~**(5)(6) to be a person who has been adjudged in need of a**~~
35 ~~**guardian or conservator, or both, under the act for obtaining a**~~
36 ~~**guardian or conservator, or both, and who has not been restored to**~~
37 ~~**capacity under that act;**~~

38 ~~**(6)(7) to be guilty of unprofessional conduct as defined by rules**~~
39 ~~**and regulations of the board;**~~

40 ~~**(7)(8) to have willfully or repeatedly violated the provisions of the**~~
41 ~~**Kansas nurse practice act or any rules and regulations adopted**~~
42 ~~**pursuant to that act, including K.S.A. 65-1114 and 65-1122, and**~~
43 ~~**amendments thereto;**~~

1 ~~(8)~~(9) to have a license to practice nursing as a registered nurse or
2 as a practical nurse denied, revoked, limited or suspended, or to be
3 publicly or privately censured, by a licensing authority of another
4 state, agency of the United States government, territory of the United
5 States or country or to have other disciplinary action taken against the
6 applicant or licensee by a licensing authority of another state, agency
7 of the United States government, territory of the United States or
8 country. A certified copy of the record or order of public or private
9 censure, denial, suspension, limitation, revocation or other
10 disciplinary action of the licensing authority of another state, agency
11 of the United States government, territory of the United States or
12 country shall constitute prima facie evidence of such a fact for
13 purposes of this paragraph-~~(8)~~ (9); or

14 ~~(9)~~(10) to have assisted suicide in violation of K.S.A. 21-3406,
15 prior to its repeal, or K.S.A. 2017 Supp. 21-5407, and amendments
16 thereto, as established by any of the following:

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

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

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

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

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

43 (d) *Costs.* If final agency action of the board in a proceeding

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 shall promote improved means of nursing education and standards of
2 nursing care through institutes, conferences and other means.

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

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

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

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

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

1 the district courts of this state.

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

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

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