

P.L. 2019, CHAPTER 172, *approved July 19, 2019*
Senate Committee Substitute (*First Reprint*) for
Senate, Nos. 954 and 1699

1 **AN ACT** concerning the enhanced multistate Nurse Licensure
2 Compact and supplementing Title 45 of the Revised Statutes.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. The State of New Jersey enacts and enters into the Nurse
8 Licensure Compact with all other jurisdictions that legally join in the
9 compact in the form substantially as follows:

10
11 ARTICLE I: Findings and Declaration of Purpose

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13 a. The party states find that:

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

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

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

23 4. New practice modalities and technology make compliance with
24 individual state nurse licensure laws difficult and complex;

25 5. The current system of duplicative licensure for nurses practicing
26 in multiple states is cumbersome and redundant for both nurses and
27 states; and

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

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

31 1. Facilitate the states' responsibility to protect the public's health
32 and safety;

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

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

37 4. Promote compliance with the laws governing the practice of

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SBA committee amendments adopted February 7, 2019.

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
7 nurse licenses; and

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

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11 ARTICLE II: Definitions

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13 As used in this Compact:

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

22 b. “Alternative program” means a non-disciplinary monitoring
23 program approved by a licensing board.

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

29 d. “Current significant investigative information” means:

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

35 2. Investigative information that indicates that the nurse represents
36 an immediate threat to public health and safety regardless of whether
37 the nurse has been notified and had an opportunity to respond ¹; or

38 3. Any information concerning a nurse reported to a licensing
39 board by a health care entity, health care professional, or any other
40 person, which indicates that the nurse demonstrated an impairment,
41 gross incompetence, or unprofessional conduct that would present an
42 imminent danger to a patient or the public health, safety, or welfare¹ .

43 e. “Encumbrance” means a revocation or suspension of, or any
44 limitation on, the full and unrestricted practice of nursing imposed by a
45 licensing board.

46 f. “Home state” means the party state which is the nurse’s primary
47 state of residence.

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

28

29 ARTICLE III: General Provisions and Jurisdiction

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- 31 a. A multistate license to practice registered or licensed
32 practical/vocational nursing issued by a home state to a resident in that
33 state will be recognized by each party state as authorizing a nurse to
34 practice as a registered nurse (RN) or as a licensed practical/vocational
35 nurse (LPN/VN), under a multistate licensure privilege, in each party
36 state.
- 37 b. A state must implement procedures for considering the criminal
38 history records of applicants for an initial multistate license or licensure
39 by endorsement. Such procedures shall include the submission of
40 fingerprints or other biometric-based information by applicants for the
41 purpose of obtaining an applicant’s criminal history record information
42 from the Federal Bureau of Investigation and the agency responsible for
43 retaining that state’s criminal records.
- 44 c. Each party state shall require its licensing board to authorize an
45 applicant to obtain or retain a multistate license in the home state only
46 if the applicant:
- 47 1. Meets the home state’s qualifications for licensure or renewal of

- 1 licensure, and complies with all other applicable state laws;
- 2 2. i. Has graduated or is eligible to graduate from a licensing
- 3 board-approved RN or LPN/VN prelicensure education program; or
- 4 ii. Has graduated from a foreign RN or LPN/VN prelicensure
- 5 education program that has been: (a) approved by the authorized
- 6 accrediting body in the applicable country, and (b) verified by an
- 7 independent credentials review agency to be comparable to a licensing
- 8 board-approved prelicensure education program;
- 9 3. Has, if a graduate of a foreign prelicensure education program
- 10 not taught in English or if English is not the individual's native
- 11 language, successfully passed an English proficiency examination that
- 12 includes the components of reading, speaking, writing and listening;
- 13 4. Has successfully passed an NCLEX-RN or NCLEX-PN
- 14 Examination or recognized predecessor, as applicable;
- 15 5. Is eligible for or holds an active, unencumbered license;
- 16 6. Has submitted, in connection with an application for initial
- 17 licensure or licensure by endorsement, fingerprints or other biometric
- 18 data for the purpose of obtaining criminal history record information
- 19 from the Federal Bureau of Investigation and the agency responsible for
- 20 retaining that state's criminal records;
- 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
- 33 multistate licensure privilege such as revocation, suspension,
- 34 probation or any other action that affects a nurse's authorization to
- 35 practice under a multistate licensure privilege, including cease and
- 36 desist actions. If a party state takes such action, it shall promptly notify
- 37 the administrator of the coordinated licensure information system. The
- 38 administrator of the coordinated licensure information system shall
- 39 promptly notify the home state of any 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
- 42 service is provided. The practice of nursing is not limited to patient
- 43 care, but shall include all nursing practice as defined by the state
- 44 practice laws of the party state in which the client is located. The
- 45 practice of nursing in a party state under a multistate licensure privilege
- 46 will subject a nurse to the jurisdiction of the licensing board, the courts
- 47 and the laws of the party state in which the client is located at the time

1 service is provided.

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

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

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

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

23 ARTICLE IV: Applications for Licensure in a Party State 24

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

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

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

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

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

47 d. If a nurse changes primary state of residence by moving from a

1 party state to a non-party state, the multistate license issued by the
2 prior home state will convert to a single-state license, valid only in the
3 former home state.

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5 ARTICLE V: Additional Authorities Invested in Party State Licensing
6 Boards
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8 a. In addition to the other powers conferred by state law, a
9 licensing board shall have the authority to:

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

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

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

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

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

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

40 5. Obtain and submit, for each nurse licensure applicant,
41 fingerprint or other biometric-based information to the Federal Bureau
42 of Investigation for criminal background checks, receive the results of
43 the Federal Bureau of Investigation record search on criminal
44 background checks and use the results in making licensure decisions.

45 6. If otherwise permitted by state law, recover from the affected
46 nurse the costs of investigations and disposition of cases resulting from
47 any adverse action taken against that nurse.

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

ARTICLE VI: Coordinated Licensure Information System and Exchange of Information

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

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

f. Any personally identifiable information obtained from the coordinated licensure information system by a party state licensing board shall not be shared with non-party states or disclosed to other

- 1 entities or individuals except to the extent permitted by the laws of the
2 party state contributing the information.
- 3 g. Any information contributed to the coordinated licensure
4 information system that is subsequently required to be expunged by the
5 laws of the party state contributing that information shall also be
6 expunged from the coordinated licensure information system.
- 7 h. The Compact administrator of each party state shall furnish a
8 uniform data set to the Compact administrator of each other party state,
9 which shall include, at a minimum:
- 10 1. Identifying information;
11 2. Licensure data;
12 3. Information related to alternative program participation; and
13 4. Other information that may facilitate the administration of this
14 Compact, as determined by Commission rules.
- 15 i. The Compact administrator of a party state shall provide all
16 investigative documents and information requested by another party
17 state.

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19 ARTICLE VII: Establishment of the Interstate Commission of Nurse
20 Licensure Compact Administrators

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- 22 a. The party states hereby create and establish a joint public entity
23 known as the Interstate Commission of Nurse Licensure Compact
24 Administrators.
- 25 1. The Commission is an instrumentality of the party states.
26 2. Venue is proper, and judicial proceedings by or against the
27 Commission shall be brought solely and exclusively, in a court of
28 competent jurisdiction where the principal office of the Commission is
29 located. The Commission may waive venue and jurisdictional
30 defenses to the extent it adopts or consents to participate in alternative
31 dispute resolution proceedings.
- 32 3. Nothing in this Compact shall be construed to be a waiver of
33 sovereign immunity.
- 34 b. Membership, Voting and Meetings
- 35 1. Each party state shall have and be limited to one administrator.
36 The head of the state licensing board or designee shall be the
37 administrator of this Compact for each party state. Any administrator
38 may be removed or suspended from office as provided by the law of the
39 state from which the Administrator is appointed. Any vacancy
40 occurring in the Commission shall be filled in accordance with the laws
41 of the party state in which the vacancy exists.
- 42 2. Each administrator shall be entitled to one (1) vote with regard
43 to the promulgation of rules and creation of bylaws and shall otherwise
44 have an opportunity to participate in the business and affairs of the
45 Commission. An administrator shall vote in person or by such other
46 means as provided in the bylaws. The bylaws may provide for an
47 administrator's participation in meetings by telephone or other means of

1 communication.

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

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

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

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

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

16 iii. Current, threatened or reasonably anticipated litigation;

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

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

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

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

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

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

30 x. Matters specifically exempted from disclosure by federal or
31 state statute.

32 6. If a meeting, or portion of a meeting, is closed pursuant to this
33 provision, the Commission's legal counsel or designee shall certify that
34 the meeting may be closed and shall reference each relevant exempting
35 provision. The Commission shall keep minutes that fully and clearly
36 describe all matters discussed in a meeting and shall provide a full and
37 accurate summary of actions taken, and the reasons therefor, including
38 a description of the views expressed. All documents considered in
39 connection with an action shall be identified in such minutes. All
40 minutes and documents of a closed meeting shall remain under seal,
41 subject to release by a majority vote of the Commission or order of a
42 court of competent jurisdiction.

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

47 1. Establishing the fiscal year of the Commission;

- 1 2. Providing reasonable standards and procedures:
- 2 i. For the establishment and meetings of other committees; and
- 3 ii. Governing any general or specific delegation of any authority or
- 4 function of the Commission;
- 5 3. Providing reasonable procedures for calling and conducting
- 6 meetings of the Commission, ensuring reasonable advance notice of all
- 7 meetings and providing an opportunity for attendance of such meetings
- 8 by interested parties, with enumerated exceptions designed to protect
- 9 the public's interest, the privacy of individuals, and proprietary
- 10 information, including trade secrets. The Commission may meet in
- 11 closed session only after a majority of the administrators vote to close a
- 12 meeting in whole or in part. As soon as practicable, the Commission
- 13 must make public a copy of the vote to close the meeting revealing the
- 14 vote of each administrator, with no proxy votes allowed;
- 15 4. Establishing the titles, duties and authority and reasonable
- 16 procedures for the election of the officers of the Commission;
- 17 5. Providing reasonable standards and procedures for the
- 18 establishment of the personnel policies and programs of the
- 19 Commission. Notwithstanding any civil service or other similar laws
- 20 of any party state, the bylaws shall exclusively govern the personnel
- 21 policies and programs of the Commission; and
- 22 6. Providing a mechanism for winding up the operations of the
- 23 Commission and the equitable disposition of any surplus funds that
- 24 may exist after the termination of this Compact after the payment or
- 25 reserving of all of its debts and obligations;
- 26 d. The Commission shall publish its bylaws and rules, and any
- 27 amendments thereto, in a convenient form on the website of the
- 28 Commission.
- 29 e. The Commission shall maintain its financial records in
- 30 accordance with the bylaws.
- 31 f. The Commission shall meet and take such actions as are
- 32 consistent with the provisions of this Compact and the bylaws.
- 33 g. The Commission shall have the following powers:
- 34 1. To promulgate uniform rules to facilitate and coordinate
- 35 implementation and administration of this Compact. The rules shall
- 36 have the force and effect of law and shall be binding in all party states;
- 37 2. To bring and prosecute legal proceedings or actions in the name
- 38 of the Commission, provided that the standing of any licensing board to
- 39 sue or be sued under applicable law shall not be affected;
- 40 3. To purchase and maintain insurance and bonds;
- 41 4. To borrow, accept or contract for services of personnel,
- 42 including, but not limited to, employees of a party state or nonprofit
- 43 organizations;
- 44 5. To cooperate with other organizations that administer state
- 45 compacts related to the regulation of nursing, including but not limited
- 46 to sharing administrative or staff expenses, office space or other
- 47 resources;

1 6. To hire employees, elect or appoint officers, fix compensation,
2 define duties, grant such individuals appropriate authority to carry out
3 the purposes of this Compact, and to establish the Commission's
4 personnel policies and programs relating to conflicts of interest,
5 qualifications of personnel and other related personnel matters;

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

11 8. To lease, purchase, accept appropriate gifts or donations of, or
12 otherwise to own, hold, improve or use, any property, whether real,
13 personal or mixed; provided that at all times the Commission shall
14 avoid any appearance of impropriety;

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

17 10. To establish a budget and make expenditures;

18 11. To borrow money;

19 12. To appoint committees, including advisory committees
20 comprised of administrators, state nursing regulators, state legislators or
21 their representatives, and consumer representatives, and other such
22 interested persons;

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

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

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

29 h. Financing of the Commission

30 1. The Commission shall pay, or provide for the payment of, the
31 reasonable expenses of its establishment, organization and ongoing
32 activities.

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

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

43 4. The Commission shall keep accurate accounts of all receipts and
44 disbursements. The receipts and disbursements of the Commission
45 shall be subject to the audit and accounting procedures established
46 under its bylaws. However, all receipts and disbursements of funds
47 handled by the Commission shall be audited yearly by a certified or

1 licensed public accountant, and the report of the audit shall be included
2 in and become part of the annual report of the Commission.

3 i. Qualified Immunity, Defense and Indemnification

4 1. The administrators, officers, executive director, employees and
5 representatives of the Commission shall be immune from suit and
6 liability, either personally or in their official capacity, for any claim for
7 damage to or loss of property or personal injury or other civil liability
8 caused by or arising out of any actual or alleged act, error or omission
9 that occurred, or that the person against whom the claim is made had a
10 reasonable basis for believing occurred, within the scope of
11 Commission employment, duties or responsibilities; provided that
12 nothing in this paragraph shall be construed to protect any such person
13 from suit or liability for any damage, loss, injury or liability caused by
14 the intentional, willful or wanton misconduct of that person.

15 2. The Commission shall defend any administrator, officer,
16 executive director, employee or representative of the Commission in
17 any civil action seeking to impose liability arising out of any actual or
18 alleged act, error or omission that occurred within the scope of
19 Commission employment, duties or responsibilities, or that the person
20 against whom the claim is made had a reasonable basis for believing
21 occurred within the scope of Commission employment, duties or
22 responsibilities; provided that nothing herein shall be construed to
23 prohibit that person from retaining his or her own counsel; and
24 provided further that the actual or alleged act, error or omission did not
25 result from that person's intentional, willful or wanton misconduct.

26 3. The Commission shall indemnify and hold harmless any
27 administrator, officer, executive director, employee or representative of
28 the Commission for the amount of any settlement or judgment
29 obtained against that person arising out of any actual or alleged act,
30 error or omission that occurred within the scope of Commission
31 employment, duties or responsibilities, or that such person had a
32 reasonable basis for believing occurred within the scope of Commission
33 employment, duties or responsibilities, provided that the actual or
34 alleged act, error or omission did not result from the intentional, willful
35 or wanton misconduct of that person.

36
37 ARTICLE VIII: Rulemaking

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

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

46 c. Prior to promulgation and adoption of a final rule or rules by the
47 Commission, and at least sixty (60) days in advance of the meeting at
48 which the rule will be considered and voted upon, the Commission

- 1 shall file a notice of proposed rulemaking:
- 2 1. On the website of the Commission; and
- 3 2. On the website of each licensing board or the publication in
- 4 which each state would otherwise publish proposed rules.
- 5 d. The notice of proposed rulemaking shall include:
- 6 1. The proposed time, date and location of the meeting in which
- 7 the rule will be considered and voted upon;
- 8 2. The text of the proposed rule or amendment, and the reason for
- 9 the proposed rule;
- 10 3. A request for comments on the proposed rule from any
- 11 interested person; and
- 12 4. The manner in which interested persons may submit notice to
- 13 the Commission of their intention to attend the public hearing and any
- 14 written comments.
- 15 e. Prior to adoption of a proposed rule, the Commission shall
- 16 allow persons to submit written data, facts, opinions and arguments,
- 17 which shall be made available to the public.
- 18 f. The Commission shall grant an opportunity for a public hearing
- 19 before it adopts a rule or amendment.
- 20 g. The Commission shall publish the place, time and date of the
- 21 scheduled public hearing.
- 22 1. Hearings shall be conducted in a manner providing each person
- 23 who wishes to comment a fair and reasonable opportunity to comment
- 24 orally or in writing. All hearings will be recorded, and a copy will be
- 25 made available upon request.
- 26 2. Nothing in this section shall be construed as requiring a separate
- 27 hearing on each rule. Rules may be grouped for the convenience of the
- 28 Commission at hearings required by this section.
- 29 h. If no one appears at the public hearing, the Commission may
- 30 proceed with promulgation of the proposed rule.
- 31 i. Following the scheduled hearing date, or by the close of
- 32 business on the scheduled hearing date if the hearing was not held, the
- 33 Commission shall consider all written and oral comments received.
- 34 j. The Commission shall, by majority vote of all administrators,
- 35 take final action on the proposed rule and shall determine the effective
- 36 date of the rule, if any, based on the rulemaking record and the full text
- 37 of the rule.
- 38 k. Upon determination that an emergency exists, the Commission
- 39 may consider and adopt an emergency rule without prior notice,
- 40 opportunity for comment or hearing, provided that the usual
- 41 rulemaking procedures provided in this Compact and in this section
- 42 shall be retroactively applied to the rule as soon as reasonably possible,
- 43 in no event later than ninety (90) days after the effective date of the
- 44 rule. For the purposes of this provision, an emergency rule is one that
- 45 must be adopted immediately in order to:
- 46 1. Meet an imminent threat to public health, safety or welfare;
- 47 2. Prevent a loss of Commission or party state funds; or

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

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

15
16 ARTICLE IX: Oversight, Dispute Resolution and Enforcement

17
18 a. Oversight

19 1. Each party state shall enforce this Compact and take all actions
20 necessary and appropriate to effectuate this Compact's purposes and
21 intent.

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

28 b. Default, Technical Assistance and Termination

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

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

35 ii. Provide remedial training and specific technical assistance
36 regarding the default.

37 2. If a state in default fails to cure the default, the defaulting state's
38 membership in this Compact may be terminated upon an affirmative
39 vote of a majority of the administrators, and all rights, privileges and
40 benefits conferred by this Compact may be terminated on the effective
41 date of termination. A cure of the default does not relieve the
42 offending state of obligations or liabilities incurred during the period of
43 default.

44 3. Termination of membership in this Compact shall be imposed
45 only after all other means of securing compliance have been exhausted.
46 Notice of intent to suspend or terminate shall be given by the
47 Commission to the governor of the defaulting state and to the executive

1 officer of the defaulting state's licensing board and each of the party
2 states.

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

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

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

16 c. Dispute Resolution

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

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

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

24 i. The party states may submit the issues in dispute to an
25 arbitration panel, which will be comprised of individuals appointed by
26 the Compact administrator in each of the affected party states, and an
27 individual mutually agreed upon by the Compact administrators of all
28 the party states involved in the dispute.

29 ii. The decision of a majority of the arbitrators shall be final and
30 binding.

31 d. Enforcement

32 1. The Commission, in the reasonable exercise of its discretion,
33 shall enforce the provisions and rules of this Compact.

34 2. By majority vote, the Commission may initiate legal action in
35 the U.S. District Court for the District of Columbia or the federal
36 district in which the Commission has its principal offices against a
37 party state that is in default to enforce compliance with the provisions
38 of this Compact and its promulgated rules and bylaws. The relief
39 sought may include both injunctive relief and damages. In the event
40 judicial enforcement is necessary, the prevailing party shall be awarded
41 all costs of such litigation, including reasonable attorneys' fees.

42 3. The remedies herein shall not be the exclusive remedies of the
43 Commission. The Commission may pursue any other remedies
44 available under federal or state law.

ARTICLE X: Effective Date, Withdrawal and Amendment

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

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

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

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

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

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

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

ARTICLE XI: Construction and Severability

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

- 1 2. ¹**[a.** A State licensed nurse whose license is under suspension
2 or under probation by the New Jersey Board of Nursing, or who is
3 participating in an established treatment program which is an
4 alternative to disciplinary action, shall not practice in any other party
5 state during the term of the suspension, probation, or participation
6 without prior authorization from the other party state. The board may
7 revoke the State license of a nurse under suspension, probation, or
8 participation who practices nursing in another party state without prior
9 authorization from that state.
- 10 b. ¹**]** The multistate licensure privilege granted by this State
11 pursuant to the compact is subject to revocation or other disciplinary
12 action as the result of any disciplinary action imposed by a nurse's
13 home state.
- 14
- 15 3. This compact is intended to facilitate regulation of the
16 practice of nursing, and it does not relieve an employer from
17 complying with contractually or statutorily imposed obligations, or
18 with collectively bargained agreements.
- 19
- 20 ¹**[4.** a. This compact shall not abrogate or supersede any
21 provision in Title 45 of the Revised Statutes, or in any other title or
22 chapter of law applicable to the practice of nursing in this State.
- 23 b. Omissions in this compact shall not be supplied by
24 construction. In any instance of an omission from the compact, the
25 remaining provisions of Title 45 of the Revised Statutes or other
26 applicable statutory law, and any regulations adopted pursuant
27 thereto, shall control.¹**]**
- 28
- 29 ¹**[5.** This compact shall not abrogate or supersede any provision
30 in Title 34 of the Revised Statutes, or in any other title or chapter of
31 law applicable to labor practices, workforce strikes, or the
32 resolution of labor disputes in this State.¹**]**
- 33
- 34 ¹**[6.]** 4.¹ Any investigative or disciplinary powers conferred on
35 the Attorney General, the Director of the Division of Consumer
36 Affairs in the Department of Law and Public Safety, and the New
37 Jersey Board of Nursing under the provisions of P.L.1978, c.73
38 (C.45:1-14 et seq.) or other law, or under regulations adopted
39 pursuant thereto, shall not be interpreted as being limited in any
40 way by the terms of the compact, and shall be available in any
41 investigation of the conduct of, or disciplinary action undertaken
42 against, a remote state licensee practicing in New Jersey or a New
43 Jersey home state licensee.
- 44
- 45 ¹**[7.]** 5.¹ Nothing in Article VII of the compact shall be
46 deemed to waive or abrogate in any way any defense or immunity
47 of a public entity or public employee under the common law or

1 statutory law including, but not limited to, the "New Jersey Tort
2 Claims Act," N.J.S.59:1-1 et seq.

3
4 **¹[8.] 6.¹** a. One year after New Jersey becomes a party to the
5 compact, as provided by this act, the Attorney General shall submit
6 a report to the Governor and, pursuant to section 2 of P.L.1991,
7 c.164 (C.52:14-19.1), to the Legislature, evaluating whether the
8 State's continued participation in the compact is in the best interest
9 of the health, safety, and welfare of its citizens. At a minimum, the
10 report shall: (1) describe the beneficial and detrimental effects,
11 evidenced during the preceding year, which have resulted from the
12 State's participation in the compact; (2) describe any potential long-
13 term effects that have not yet been experienced, but which are likely
14 to result from the State's continued participation in the compact; (3)
15 indicate whether any other party state has changed its licensure
16 requirements in the preceding year to make them less stringent than
17 the requirements in this State; and (4) provide a recommendation as
18 to whether the State should remain a party to the compact.

19 b. The Legislature may withdraw this State from the compact if
20 the report submitted by the Attorney General, pursuant to
21 subsection a. of this section, indicates that another party state has
22 changed its licensure requirements to make them substantially lower
23 than the requirements of this State, or that withdrawal from the
24 compact is in the best interests of the health, safety, and welfare of
25 the citizens of this State.

26
27 **¹[9.] 7.¹** This act shall take effect immediately.
28
29
30

31
32 Enters New Jersey in enhanced multistate Nurse Licensure
33 Compact.