

# STATE OF NEW YORK

7579

## IN SENATE

January 26, 2018

Introduced by Sen. HANNON -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education

AN ACT to amend the education law, in relation to enacting the interstate medical licensure compact (Part A); and to amend the education law, in relation to enacting the nurse licensure compact (Part B)

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act enacts into law major components of legislation  
2 which are necessary to implement provisions of law relating to enacting  
3 the interstate medical licensure compact and the nurse licensure  
4 compact. Each component is wholly contained within a Part identified as  
5 Parts A through B. The effective date for each particular provision  
6 contained within such Part is set forth in the last section of such  
7 Part. Any provision in any section contained within a Part, including  
8 the effective date of the Part, which makes a reference to a section "of  
9 this act", when used in connection with that particular component, shall  
10 be deemed to mean and refer to the corresponding section of the Part in  
11 which it is found. Section three of this act sets forth the general  
12 effective date of this act.

### 13 PART A

14 Section 1. The education law is amended by adding a new article 169 to  
15 read as follows:

#### 16 ARTICLE 169

#### 17 INTERSTATE MEDICAL LICENSURE COMPACT

#### 18 Section 8860. Short title.

#### 19 8861. Purpose.

#### 20 8862. Definitions.

#### 21 8863. Eligibility.

#### 22 8864. Designation of state of principal license.

#### 23 8865. Application and issuance of expedited licensure.

#### 24 8866. Fees for expedited licensure.

#### 25 8867. Renewal and continued participation.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1       8868. Coordinated information system.  
2       8869. Joint investigations.  
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4       8871. Interstate medical licensure compact commission.  
5       8872. Powers and duties of the interstate commission.  
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12       8879. Dispute resolution.  
13       8880. Member states, effective date and amendment.  
14       8881. Withdrawal.  
15       8882. Dissolution.  
16       8883. Severability and construction.  
17       8884. Binding effect of compact and other laws.

18       § 8860. Short title. This article shall be known and may be cited as  
19 the "interstate medical licensure compact".

20       § 8861. Purpose. In order to strengthen access to health care, and in  
21 recognition of the advances in the delivery of health care, the member  
22 states of the interstate medical licensure compact have allied in common  
23 purpose to develop a comprehensive process that complements the existing  
24 licensing and regulatory authority of state medical boards, provides a  
25 streamlined process that allows physicians to become licensed in multi-  
26 ple states, thereby enhancing the portability of a medical license and  
27 ensuring the safety of patients. The compact creates another pathway  
28 for licensure and does not otherwise change a state's existing medical  
29 practice act. The compact also adopts the prevailing standard for licen-  
30 sure and affirms that the practice of medicine occurs where the patient  
31 is located at the time of the physician-patient encounter, and there-  
32 fore, requires the physician to be under the jurisdiction of the state  
33 medical board where the patient is located. State medical boards that  
34 participate in the compact retain the jurisdiction to impose an adverse  
35 action against a license to practice medicine in that state issued to a  
36 physician through the procedures in the compact.

37       § 8862. Definitions. In this compact:

38       1. "Bylaws" means those bylaws established by the interstate commis-  
39 sion pursuant to section eighty-eight hundred seventy-one of this arti-  
40 cle for its governance, or for directing and controlling its actions and  
41 conduct.

42       2. "Commissioner" means the voting representative appointed by each  
43 member board pursuant to section eighty-eight hundred seventy-one of  
44 this article.

45       3. "Conviction" means a finding by a court that an individual is guil-  
46 ty of a criminal offense through adjudication, or entry of a plea of  
47 guilt or no contest to the charge by the offender. Evidence of an entry  
48 of a conviction of a criminal offense by the court shall be considered  
49 final for purposes of disciplinary action by a member board.

50       4. "Expedited license" means a full and unrestricted medical license  
51 granted by a member state to an eligible physician through the process  
52 set forth in the compact.

53       5. "Interstate commission" means the interstate commission created  
54 pursuant to section eighty-eight hundred seventy-one of this article.

1     6. "License" means authorization by a state for a physician to engage  
2 in the practice of medicine, which would be unlawful without the author-  
3 ization.

4     7. "Medical practice act" means laws and regulations governing the  
5 practice of allopathic and osteopathic medicine within a member state.

6     8. "Member board" means a state agency in a member state that acts in  
7 the sovereign interests of the state by protecting the public through  
8 licensure, regulation, and education of physicians as directed by the  
9 state government.

10    9. "Member state" means a state that has enacted the compact.

11    10. "Practice of medicine" means the clinical prevention, diagnosis,  
12 or treatment of human disease, injury, or condition requiring a physi-  
13 cian to obtain and maintain a license in compliance with the medical  
14 practice act of a member state.

15    11. "Physician" means any person who:

16    (a) Is a graduate of a medical school accredited by the Liaison  
17 Committee on Medical Education, the Commission on Osteopathic College  
18 Accreditation, or a medical school listed in the International Medical  
19 Education Directory or its equivalent;

20    (b) Passed each component of the United States Medical Licensing Exam-  
21 ination (USMLE) or the Comprehensive Osteopathic Medical Licensing Exam-  
22 ination (COMLEX-USA) within three attempts, or any of its predecessor  
23 examinations accepted by a state medical board as an equivalent examina-  
24 tion for licensure purposes;

25    (c) Successfully completed graduate medical education approved by the  
26 Accreditation Council for Graduate Medical Education or the American  
27 Osteopathic Association;

28    (d) Holds specialty certification or a time-unlimited specialty  
29 certificate recognized by the American Board of Medical Specialties or  
30 the American Osteopathic Association's Bureau of Osteopathic Special-  
31 ists;

32    (e) Possesses a full and unrestricted license to engage in the prac-  
33 tice of medicine issued by a member board;

34    (f) Has never been convicted, received adjudication, deferred adjudi-  
35 cation, community supervision, or deferred disposition for any offense  
36 by a court of appropriate jurisdiction;

37    (g) Has never held a license authorizing the practice of medicine  
38 subjected to discipline by a licensing agency in any state, federal, or  
39 foreign jurisdiction, excluding any action related to non-payment of  
40 fees related to a license;

41    (h) Has never had a controlled substance license or permit suspended  
42 or revoked by a state or the United States drug enforcement adminis-  
43 tration; and

44    (i) Is not under active investigation by a licensing agency or law  
45 enforcement authority in any state, federal, or foreign jurisdiction.

46    12. "Offense" means a felony, gross misdemeanor, or crime of moral  
47 turpitude.

48    13. "Rule" means a written statement by the interstate commission  
49 promulgated pursuant to section eighty-eight hundred seventy-two of this  
50 article that is of general applicability, implements, interprets, or  
51 prescribes a policy or provision of the compact, or an organizational,  
52 procedural, or practice requirement of the interstate commission, and  
53 has the force and effect of statutory law in a member state, and  
54 includes the amendment, repeal, or suspension of an existing rule.

55    14. "State" means any state, commonwealth, district, or territory of  
56 the United States.

15. "State of principal license" means a member state where a physician holds a license to practice medicine and which has been designated as such by the physician for purposes of registration and participation in the compact.

§ 8863. Eligibility. 1. A physician must meet the eligibility requirements as defined in subdivision 11 of section eighty-eight hundred sixty-two of this article to receive an expedited license under the terms and provisions of the compact.

2. A physician who does not meet the requirements of subdivision 11 of section eighty-eight hundred sixty-two of this article may obtain a license to practice medicine in a member state if the individual complies with all laws and requirements, other than the compact, relating to the issuance of a license to practice medicine in that state.

§ 8864. Designation of state of principal license. 1. A physician shall designate a member state as the state of principal license for purposes of registration for expedited licensure through the compact if the physician possesses a full and unrestricted license to practice medicine in that state, and the state is:

(a) the state of primary residence for the physician, or

(b) the state where at least twenty-five percent of the practice of medicine occurs, or

(c) the location of the physician's employer, or

(d) if no state qualifies under paragraph (a), (b) or (c) of this subdivision, the state designated as state of residence for purpose of federal income tax.

2. A physician may redesignate a member state as state of principal license at any time, as long as the state meets the requirements in subdivision one of this section.

3. The interstate commission is authorized to develop rules to facilitate redesignation of another member state as the state of principal license.

§ 8865. Application and issuance of expedited licensure. 1. A physician seeking licensure through the compact shall file an application for an expedited license with the member board of the state selected by the physician as the state of principal license.

2. Upon receipt of an application for an expedited license, the member board within the state selected as the state of principal license shall evaluate whether the physician is eligible for expedited licensure and issue a letter of qualification, verifying or denying the physician's eligibility, to the interstate commission.

(a) Static qualifications, which include verification of medical education, graduate medical education, results of any medical or licensing examination, and other qualifications as determined by the interstate commission through rule, shall not be subject to additional primary source verification where already primary source verified by the state of principal license.

(b) The member board within the state selected as the state of principal license shall, in the course of verifying eligibility, perform a criminal background check of an applicant, including the use of the results of fingerprint or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation, with the exception of federal employees who have suitability determination in accordance with U.S. C.F.R. § 731.202.

(c) Appeal on the determination of eligibility shall be made to the member state where the application was filed and shall be subject to the law of that state.

1     3. Upon verification in subdivision two of this section, physicians  
2 eligible for an expedited license shall complete the registration proc-  
3 ess established by the interstate commission to receive a license in a  
4 member state selected pursuant to subdivision one of this section,  
5 including the payment of any applicable fees.

6     4. After receiving verification of eligibility under subdivision two  
7 of this section and any fees under subdivision three of this section, a  
8 member board shall issue an expedited license to the physician. This  
9 license shall authorize the physician to practice medicine in the issu-  
10 ing state consistent with the medical practice act and all applicable  
11 laws and regulations of the issuing member board and member state.

12     5. An expedited license shall be valid for a period consistent with  
13 the licensure period in the member state and in the same manner as  
14 required for other physicians holding a full and unrestricted license  
15 within the member state.

16     6. An expedited license obtained through the compact shall be termi-  
17 nated if a physician fails to maintain a license in the state of princi-  
18 pal licensure for a non-disciplinary reason, without redesignation of a  
19 new state of principal licensure.

20     7. The interstate commission is authorized to develop rules regarding  
21 the application process, including payment of any applicable fees, and  
22 the issuance of an expedited license.

23     § 8866. Fees for expedited licensure. 1. A member state issuing an  
24 expedited license authorizing the practice of medicine in that state may  
25 impose a fee for a license issued or renewed through the compact.

26     2. The interstate commission is authorized to develop rules regarding  
27 fees for expedited licenses.

28     § 8867. Renewal and continued participation. 1. A physician seeking to  
29 renew an expedited license granted in a member state shall complete a  
30 renewal process with the interstate commission if the physician:

31     (a) Maintains a full and unrestricted license in a state of principal  
32 license;

33     (b) Has not been convicted, received adjudication, deferred adjudi-  
34 cation, community supervision, or deferred disposition for any offense  
35 by a court of appropriate jurisdiction;

36     (c) Has not had a license authorizing the practice of medicine subject  
37 to discipline by a licensing agency in any state, federal, or foreign  
38 jurisdiction, excluding any action related to non-payment of fees  
39 related to a license; and

40     (d) Has not had a controlled substance license or permit suspended or  
41 revoked by a state or the United States drug enforcement administration.

42     2. Physicians shall comply with all continuing professional develop-  
43 ment or continuing medical education requirements for renewal of a  
44 license issued by a member state.

45     3. The interstate commission shall collect any renewal fees charged  
46 for the renewal of a license and distribute the fees to the applicable  
47 member board.

48     4. Upon receipt of any renewal fees collected in subdivision three of  
49 this section, a member board shall renew the physician's license.

50     5. Physician information collected by the interstate commission during  
51 the renewal process will be distributed to all member boards.

52     6. The interstate commission is authorized to develop rules to address  
53 renewal of licenses obtained through the compact.

54     § 8868. Coordinated information system. 1. The interstate commission  
55 shall establish a database of all physicians licensed, or who have

1 applied for licensure, under section eighty-eight hundred sixty-five of  
2 this article.

3 2. Notwithstanding any other provision of law, member boards shall  
4 report to the interstate commission any public action or complaints  
5 against a licensed physician who has applied or received an expedited  
6 license through the compact.

7 3. Member boards shall report disciplinary or investigatory informa-  
8 tion determined as necessary and proper by rule of the interstate  
9 commission.

10 4. Member boards may report any non-public complaint, disciplinary, or  
11 investigatory information not required by subdivision three of this  
12 section to the interstate commission.

13 5. Member boards shall share complaint or disciplinary information  
14 about a physician upon request of another member board.

15 6. All information provided to the interstate commission or distrib-  
16 uted by member boards shall be confidential, filed under seal, and used  
17 only for investigatory or disciplinary matters.

18 7. The interstate commission is authorized to develop rules for  
19 mandated or discretionary sharing of information by member boards.

20 § 8869. Joint investigations. 1. Licensure and disciplinary records of  
21 physicians are deemed investigative.

22 2. In addition to the authority granted to a member board by its  
23 respective medical practice act or other applicable state law, a member  
24 board may participate with other member boards in joint investigations  
25 of physicians licensed by the member boards.

26 3. A subpoena issued by a member state shall be enforceable in other  
27 member states.

28 4. Member boards may share any investigative, litigation, or compli-  
29 ance materials in furtherance of any joint or individual investigation  
30 initiated under the compact.

31 5. Any member state may investigate actual or alleged violations of  
32 the statutes authorizing the practice of medicine in any other member  
33 state in which a physician holds a license to practice medicine.

34 § 8870. Disciplinary actions. 1. Any disciplinary action taken by any  
35 member board against a physician licensed through the compact shall be  
36 deemed unprofessional conduct which may be subject to discipline by  
37 other member boards, in addition to any violation of the medical prac-  
38 tice act or regulations in that state.

39 2. If a license granted to a physician by the member board in the  
40 state of principal license is revoked, surrendered or relinquished in  
41 lieu of discipline, or suspended, then all licenses issued to the physi-  
42 cian by member boards shall automatically be placed, without further  
43 action necessary by any member board, on the same status. If the member  
44 board in the state of principal license subsequently reinstates the  
45 physician's license, a license issued to the physician by any other  
46 member board shall remain encumbered until that respective member board  
47 takes action to reinstate the license in a manner consistent with the  
48 medical practice act of that state.

49 3. If disciplinary action is taken against a physician by a member  
50 board not in the state of principal license, any other member board may  
51 deem the action conclusive as to matter of law and fact decided, and:

52 (a) impose the same or lesser sanction or sanctions against the physi-  
53 cian so long as such sanctions are consistent with the medical practice  
54 act of that state;



1 (b) or pursue separate disciplinary action against the physician under  
2 its respective medical practice act, regardless of the action taken in  
3 other member states.

4 4. If a license granted to a physician by a member board is revoked,  
5 surrendered or relinquished in lieu of discipline, or suspended, then  
6 any license or licenses issued to the physician by any other member  
7 board or boards shall be suspended, automatically and immediately with-  
8 out further action necessary by the other member board or boards, for  
9 ninety days upon entry of the order by the disciplining board, to permit  
10 the member board or boards to investigate the basis for the action under  
11 the medical practice act of that state. A member board may terminate the  
12 automatic suspension of the license it issued prior to the completion of  
13 the ninety day suspension period in a manner consistent with the medical  
14 practice act of that state.

15 § 8871. Interstate medical licensure compact commission. 1. The member  
16 states hereby create the "interstate medical licensure compact commis-  
17 sion".

18 2. The purpose of the interstate commission is the administration of  
19 the interstate medical licensure compact, which is a discretionary state  
20 function.

21 3. The interstate commission shall be a body corporate and joint agen-  
22 cy of the member states and shall have all the responsibilities, powers,  
23 and duties set forth in the compact, and such additional powers as may  
24 be conferred upon it by a subsequent concurrent action of the respective  
25 legislatures of the member states in accordance with the terms of the  
26 compact.

27 4. The interstate commission shall consist of two voting represen-  
28 tatives appointed by each member state who shall serve as commissioners.  
29 In states where allopathic and osteopathic physicians are regulated by  
30 separate member boards, or if the licensing and disciplinary authority  
31 is split between multiple member boards within a member state, the  
32 member state shall appoint one representative from each member board. A  
33 Commissioner shall be a or an:

34 (a) Allopathic or osteopathic physician appointed to a member board;

35 (b) Executive director, executive secretary, or similar executive of a  
36 member board; or

37 (c) Member of the public appointed to a member board.

38 5. The interstate commission shall meet at least once each calendar  
39 year. A portion of this meeting shall be a business meeting to address  
40 such matters as may properly come before the commission, including the  
41 election of officers. The chairperson may call additional meetings and  
42 shall call for a meeting upon the request of a majority of the member  
43 states.

44 6. The bylaws may provide for meetings of the interstate commission to  
45 be conducted by telecommunication or electronic communication.

46 7. Each commissioner participating at a meeting of the interstate  
47 commission is entitled to one vote. A majority of commissioners shall  
48 constitute a quorum for the transaction of business, unless a larger  
49 quorum is required by the bylaws of the interstate commission. A commis-  
50 sioner shall not delegate a vote to another commissioner. In the absence  
51 of its commissioner, a member state may delegate voting authority for a  
52 specified meeting to another person from that state who shall meet the  
53 requirements of subdivision four of this section.

54 8. The interstate commission shall provide public notice of all meet-  
55 ings and all meetings shall be open to the public. The interstate  
56 commission may close a meeting, in full or in portion, where it deter-

1 mines by a two-thirds vote of the commissioners present that an open  
2 meeting would be likely to:

3 (a) Relate solely to the internal personnel practices and procedures  
4 of the interstate commission;

5 (b) Discuss matters specifically exempted from disclosure by federal  
6 statute;

7 (c) Discuss trade secrets, commercial, or financial information that  
8 is privileged or confidential;

9 (d) Involve accusing a person of a crime, or formally censuring a  
10 person;

11 (e) Discuss information of a personal nature where disclosure would  
12 constitute a clearly unwarranted invasion of personal privacy;

13 (f) Discuss investigative records compiled for law enforcement  
14 purposes; or

15 (g) Specifically relate to the participation in a civil action or  
16 other legal proceeding.

17 9. The interstate commission shall keep minutes which shall fully  
18 describe all matters discussed in a meeting and shall provide a full and  
19 accurate summary of actions taken, including record of any roll call  
20 votes.

21 10. The interstate commission shall make its information and official  
22 records, to the extent not otherwise designated in the compact or by its  
23 rules, available to the public for inspection.

24 11. The interstate commission shall establish an executive committee,  
25 which shall include officers, members, and others as determined by the  
26 bylaws. The executive committee shall have the power to act on behalf of  
27 the interstate commission, with the exception of rulemaking, during  
28 periods when the interstate commission is not in session. When acting on  
29 behalf of the interstate commission, the executive committee shall over-  
30 see the administration of the compact including enforcement and compli-  
31 ance with the provisions of the compact, its bylaws and rules, and other  
32 such duties as necessary.

33 12. The interstate commission may establish other committees for  
34 governance and administration of the compact.

35 § 8872. Powers and duties of the interstate commission. The Interstate  
36 Commission shall have the duty and power to:

37 1. Oversee and maintain the administration of the compact;

38 2. Promulgate rules which shall be binding to the extent and in the  
39 manner provided for in the compact;

40 3. Issue, upon the request of a member state or member board, advisory  
41 opinions concerning the meaning or interpretation of the compact, its  
42 bylaws, rules, and actions;

43 4. Enforce compliance with compact provisions, the rules promulgated  
44 by the interstate commission, and the bylaws, using all necessary and  
45 proper means, including but not limited to the use of judicial process;

46 5. Establish and appoint committees including, but not limited to, an  
47 executive committee as required by section eighty-eight hundred seven-  
48 ty-one of this article, which shall have the power to act on behalf of  
49 the interstate commission in carrying out its powers and duties;

50 6. Pay, or provide for the payment of the expenses related to the  
51 establishment, organization, and ongoing activities of the interstate  
52 commission;

53 7. Establish and maintain one or more offices;

54 8. Borrow, accept, hire, or contract for services of personnel;

55 9. Purchase and maintain insurance and bonds;



1 10. Employ an executive director who shall have such powers to employ,  
2 select or appoint employees, agents, or consultants, and to determine  
3 their qualifications, define their duties, and fix their compensation;

4 11. Establish personnel policies and programs relating to conflicts of  
5 interest, rates of compensation, and qualifications of personnel;

6 12. Accept donations and grants of money, equipment, supplies, materi-  
7 als and services, and to receive, utilize, and dispose of it in a manner  
8 consistent with the conflict of interest policies established by the  
9 interstate commission;

10 13. Lease, purchase, accept contributions or donations of, or other-  
11 wise to own, hold, improve or use, any property, real, personal, or  
12 mixed;

13 14. Sell, convey, mortgage, pledge, lease, exchange, abandon, or  
14 otherwise dispose of any property, real, personal, or mixed;

15 15. Establish a budget and make expenditures;

16 16. Adopt a seal and bylaws governing the management and operation of  
17 the interstate commission;

18 17. Report annually to the legislatures and governors of the member  
19 states concerning the activities of the interstate commission during the  
20 preceding year. Such reports shall also include reports of financial  
21 audits and any recommendations that may have been adopted by the inter-  
22 state commission;

23 18. Coordinate education, training, and public awareness regarding the  
24 compact, its implementation, and its operation;

25 19. Maintain records in accordance with the bylaws;

26 20. Seek and obtain trademarks, copyrights, and patents; and

27 21. Perform such functions as may be necessary or appropriate to  
28 achieve the purposes of the compact.

29 § 8873. Finance powers. 1. The interstate commission may levy on and  
30 collect an annual assessment from each member state to cover the cost of  
31 the operations and activities of the interstate commission and its  
32 staff. The total assessment must be sufficient to cover the annual budg-  
33 et approved each year for which revenue is not provided by other sourc-  
34 es. The aggregate annual assessment amount shall be allocated upon a  
35 formula to be determined by the interstate commission, which shall  
36 promulgate a rule binding upon all member states.

37 2. The interstate commission shall not incur obligations of any kind  
38 prior to securing the funds adequate to meet the same.

39 3. The interstate commission shall not pledge the credit of any of the  
40 member states, except by, and with the authority of, the member state.

41 4. The interstate commission shall be subject to a yearly financial  
42 audit conducted by a certified or licensed public accountant and the  
43 report of the audit shall be included in the annual report of the inter-  
44 state commission.

45 § 8874. Organization and operation of the interstate commission. 1.  
46 The interstate commission shall, by a majority of commissioners present  
47 and voting, adopt bylaws to govern its conduct as may be necessary or  
48 appropriate to carry out the purposes of the compact within twelve  
49 months of the first interstate commission meeting.

50 2. The interstate commission shall elect or appoint annually from  
51 among its commissioners a chairperson, a vice-chairperson, and a treas-  
52 urer, each of whom shall have such authority and duties as may be speci-  
53 fied in the bylaws. The chairperson, or in the chairperson's absence or  
54 disability, the vice-chairperson, shall preside at all meetings of the  
55 interstate commission.

1 3. Officers selected in subdivision two of this section shall serve  
2 without remuneration from the interstate commission.

3 4. The officers and employees of the interstate commission shall be  
4 immune from suit and liability, either personally or in their official  
5 capacity, for a claim for damage to or loss of property or personal  
6 injury or other civil liability caused or arising out of, or relating  
7 to, an actual or alleged act, error, or omission that occurred, or that  
8 such person had a reasonable basis for believing occurred, within the  
9 scope of interstate commission employment, duties, or responsibilities;  
10 provided that such person shall not be protected from suit or liability  
11 for damage, loss, injury, or liability caused by the intentional or  
12 willful and wanton misconduct of such person.

13 (a) The liability of the executive director and employees of the  
14 interstate commission or representatives of the interstate commission,  
15 acting within the scope of such person's employment or duties for acts,  
16 errors, or omissions occurring within such person's state, may not  
17 exceed the limits of liability set forth under the constitution and laws  
18 of that state for state officials, employees, and agents. The interstate  
19 commission is considered to be an instrumentality of the states for the  
20 purposes of any such action. Nothing in this paragraph shall be  
21 construed to protect such person from suit or liability for damage,  
22 loss, injury, or liability caused by the intentional or willful and  
23 wanton misconduct of such person.

24 (b) The interstate commission shall defend the executive director, its  
25 employees, and subject to the approval of the attorney general or other  
26 appropriate legal counsel of the member state represented by an inter-  
27 state commission representative, shall defend such interstate commission  
28 representative in any civil action seeking to impose liability arising  
29 out of an actual or alleged act, error or omission that occurred within  
30 the scope of interstate commission employment, duties or responsibil-  
31 ities, or that the defendant had a reasonable basis for believing  
32 occurred within the scope of interstate commission employment, duties,  
33 or responsibilities, provided that the actual or alleged act, error, or  
34 omission did not result from intentional or willful and wanton miscon-  
35 duct on the part of such person.

36 (c) To the extent not covered by the state involved, member state, or  
37 the interstate commission, the representatives or employees of the  
38 interstate commission shall be held harmless in the amount of a settle-  
39 ment or judgment, including attorney's fees and costs, obtained against  
40 such persons arising out of an actual or alleged act, error, or omission  
41 that occurred within the scope of interstate commission employment,  
42 duties, or responsibilities, or that such persons had a reasonable basis  
43 for believing occurred within the scope of interstate commission employ-  
44 ment, duties, or responsibilities, provided that the actual or alleged  
45 act, error, or omission did not result from intentional or willful and  
46 wanton misconduct on the part of such persons.

47 § 8875. Rulemaking functions of the interstate commission. 1. The  
48 interstate commission shall promulgate reasonable rules in order to  
49 effectively and efficiently achieve the purposes of the compact.  
50 Notwithstanding the foregoing, in the event the interstate commission  
51 exercises its rulemaking authority in a manner that is beyond the scope  
52 of the purposes of the compact, or the powers granted hereunder, then  
53 such an action by the interstate commission shall be invalid and have no  
54 force or effect.

55 2. Rules deemed appropriate for the operations of the interstate  
56 commission shall be made pursuant to a rulemaking process that substan-

1 tially conforms to the "Model State Administrative Procedure Act" of  
2 2010, and subsequent amendments thereto.

3 3. Not later than thirty days after a rule is promulgated, any person  
4 may file a petition for judicial review of the rule in the United States  
5 District Court for the District of Columbia or the federal district  
6 where the interstate commission has its principal offices, provided that  
7 the filing of such a petition shall not stay or otherwise prevent the  
8 rule from becoming effective unless the court finds that the petitioner  
9 has a substantial likelihood of success. The court shall give deference  
10 to the actions of the interstate commission consistent with applicable  
11 law and shall not find the rule to be unlawful if the rule represents a  
12 reasonable exercise of the authority granted to the interstate commis-  
13 sion.

14 § 8876. Oversight of interstate compact. 1. The executive, legisla-  
15 tive, and judicial branches of state government in each member state  
16 shall enforce the compact and shall take all actions necessary and  
17 appropriate to effectuate the compact's purposes and intent. The  
18 provisions of the compact and the rules promulgated hereunder shall have  
19 standing as statutory law but shall not override existing state authori-  
20 ty to regulate the practice of medicine.

21 2. All courts shall take judicial notice of the compact and the rules  
22 in any judicial or administrative proceeding in a member state pertain-  
23 ing to the subject matter of the compact which may affect the powers,  
24 responsibilities or actions of the interstate commission.

25 3. The interstate commission shall be entitled to receive all service  
26 of process in any such proceeding, and shall have standing to intervene  
27 in the proceeding for all purposes. Failure to provide service of proc-  
28 ess to the interstate commission shall render a judgment or order void  
29 as to the interstate commission, the compact, or promulgated rules.

30 § 8877. Enforcement of interstate compact. 1. The interstate commis-  
31 sion, in the reasonable exercise of its discretion, shall enforce the  
32 provisions and rules of the compact.

33 2. The interstate commission may, by majority vote of the commis-  
34 sioners, initiate legal action in the United States District Court for the  
35 District of Columbia, or, at the discretion of the interstate commis-  
36 sion, in the federal district where the interstate commission has its  
37 principal offices, to enforce compliance with the provisions of the  
38 compact, and its promulgated rules and bylaws, against a member state in  
39 default. The relief sought may include both injunctive relief and  
40 damages. In the event judicial enforcement is necessary, the prevailing  
41 party shall be awarded all costs of such litigation including reasonable  
42 attorney's fees.

43 3. The remedies herein shall not be the exclusive remedies of the  
44 interstate commission. The interstate commission may avail itself of  
45 any other remedies available under state law or the regulation of a  
46 profession.

47 § 8878. Default procedures. 1. The grounds for default include, but  
48 are not limited to, failure of a member state to perform such obli-  
49 gations or responsibilities imposed upon it by the compact, or the rules  
50 and bylaws of the interstate commission promulgated under the compact.

51 2. If the interstate commission determines that a member state has  
52 defaulted in the performance of its obligations or responsibilities  
53 under the compact, or the bylaws or promulgated rules, the interstate  
54 commission shall:

55 (a) Provide written notice to the defaulting state and other member  
56 states, of the nature of the default, the means of curing the default,

1 and any action taken by the interstate commission. The interstate  
2 commission shall specify the conditions by which the defaulting state  
3 must cure its default; and

4 (b) Provide remedial training and specific technical assistance  
5 regarding the default.

6 3. If the defaulting state fails to cure the default, the defaulting  
7 state shall be terminated from the compact upon an affirmative vote of a  
8 majority of the commissioners and all rights, privileges, and benefits  
9 conferred by the compact shall terminate on the effective date of termi-  
10 nation. A cure of the default does not relieve the offending state of  
11 obligations or liabilities incurred during the period of the default.

12 4. Termination of membership in the compact shall be imposed only  
13 after all other means of securing compliance have been exhausted. Notice  
14 of intent to terminate shall be given by the interstate commission to  
15 the governor, the majority and minority leaders of the defaulting  
16 state's legislature, and each of the member states.

17 5. The interstate commission shall establish rules and procedures to  
18 address licenses and physicians that are materially impacted by the  
19 termination of a member state, or the withdrawal of a member state.

20 6. The member state which has been terminated is responsible for all  
21 dues, obligations, and liabilities incurred through the effective date  
22 of termination including obligations, the performance of which extends  
23 beyond the effective date of termination.

24 7. The interstate commission shall not bear any costs relating to any  
25 state that has been found to be in default or which has been terminated  
26 from the compact, unless otherwise mutually agreed upon in writing  
27 between the interstate commission and the defaulting state.

28 8. The defaulting state may appeal the action of the interstate  
29 commission by petitioning the United States District Court for the  
30 District of Columbia or the federal district where the interstate  
31 commission has its principal offices. The prevailing party shall be  
32 awarded all costs of such litigation including reasonable attorney's  
33 fees.

34 § 8879. Dispute resolution. 1. The interstate commission shall  
35 attempt, upon the request of a member state, to resolve disputes which  
36 are subject to the compact and which may arise among member states or  
37 member boards.

38 2. The interstate commission shall promulgate rules providing for both  
39 mediation and binding dispute resolution as appropriate.

40 § 8880. Member states, effective date and amendment. 1. Any state is  
41 eligible to become a member state of the compact.

42 2. The compact shall become effective and binding upon legislative  
43 enactment of the compact into law by no less than seven states. There-  
44 after, it shall become effective and binding on a state upon enactment  
45 of the compact into law by that state.

46 3. The governors of non-member states, or their designees, shall be  
47 invited to participate in the activities of the interstate commission on  
48 a non-voting basis prior to adoption of the compact by all states.

49 4. The interstate commission may propose amendments to the compact for  
50 enactment by the member states. No amendment shall become effective and  
51 binding upon the interstate commission and the member states unless and  
52 until it is enacted into law by unanimous consent of the member states.

53 § 8881. Withdrawal. 1. Once effective, the compact shall continue in  
54 force and remain binding upon each and every member state; provided that  
55 a member state may withdraw from the compact by specifically repealing  
56 the statute which enacted the compact into law.

1     2. Withdrawal from the compact shall be by the enactment of a statute  
2 repealing the same, but shall not take effect until one year after the  
3 effective date of such statute and until written notice of the with-  
4 drawal has been given by the withdrawing state to the governor of each  
5 other member state.

6     3. The withdrawing state shall immediately notify the chairperson of  
7 the interstate commission in writing upon the introduction of legis-  
8 lation repealing the compact in the withdrawing state.

9     4. The interstate commission shall notify the other member states of  
10 the withdrawing state's intent to withdraw within sixty days of its  
11 receipt of notice provided under subdivision three of this section.

12     5. The withdrawing state is responsible for all dues, obligations and  
13 liabilities incurred through the effective date of withdrawal, including  
14 obligations, the performance of which extend beyond the effective date  
15 of withdrawal.

16     6. Reinstatement following withdrawal of a member state shall occur  
17 upon the withdrawing state reenacting the compact or upon such later  
18 date as determined by the interstate commission.

19     7. The interstate commission is authorized to develop rules to address  
20 the impact of the withdrawal of a member state on licenses granted in  
21 other member states to physicians who designated the withdrawing member  
22 state as the state of principal license.

23     § 8882. Dissolution. 1. The compact shall dissolve effective upon the  
24 date of the withdrawal or default of the member state which reduces the  
25 membership in the compact to one member state.

26     2. Upon the dissolution of the compact, the compact becomes null and  
27 void and shall be of no further force or effect, and the business and  
28 affairs of the interstate commission shall be concluded and surplus  
29 funds shall be distributed in accordance with the bylaws.

30     § 8883. Severability and construction. 1. The provisions of the  
31 compact shall be severable, and if any phrase, clause, sentence, or  
32 provision is deemed unenforceable, the remaining provisions of the  
33 compact shall be enforceable.

34     2. The provisions of the compact shall be liberally construed to  
35 effectuate its purposes.

36     3. Nothing in the compact shall be construed to prohibit the applica-  
37 bility of other interstate compacts to which the states are members.

38     § 8884. Binding effect of compact and other laws. 1. Nothing herein  
39 prevents the enforcement of any other law of a member state that is not  
40 inconsistent with the compact.

41     2. All laws in a member state in conflict with the compact are super-  
42 seded to the extent of the conflict.

43     3. All lawful actions of the interstate commission, including all  
44 rules and bylaws promulgated by the commission, are binding upon the  
45 member states.

46     4. All agreements between the interstate commission and the member  
47 states are binding in accordance with their terms.

48     5. In the event any provision of the compact exceeds the constitu-  
49 tional limits imposed on the legislature of any member state, such  
50 provision shall be ineffective to the extent of the conflict with the  
51 constitutional provision in question in that member state.

52     § 2. This act shall take effect immediately.



1 Section 1. The education law is amended by adding a new article 169-A  
2 to read as follows:

3 ARTICLE 169-A

4 NURSE LICENSURE COMPACT

5 Section 8886. Short title.

6 8887. Findings and declaration of purpose.

7 8888. Definitions.

8 8889. General provisions and jurisdiction.

9 8890. Applications for licensure in a party state.

10 8891. Additional authorities invested in party state licensing  
11 boards.

12 8892. Coordinated licensure information system and exchange of  
13 information.

14 8893. Establishment of the interstate commission of nurse licen-  
15 sure compact administrators.

16 8894. Rulemaking.

17 8895. Oversight, dispute resolution and enforcement.

18 8896. Effective date, withdrawal and amendment.

19 8897. Construction and severability.

20 § 8886. Short title. This article shall be known and may be cited as  
21 the "nurse licensure compact".

22 § 8887. Findings and declaration of purpose. 1. The party states find  
23 that:

24 (a) The health and safety of the public are affected by the degree of  
25 compliance with and the effectiveness of enforcement activities related  
26 to state nurse licensure laws;

27 (b) Violations of nurse licensure and other laws regulating the prac-  
28 tice of nursing may result in injury or harm to the public;

29 (c) The expanded mobility of nurses and the use of advanced communi-  
30 cation technologies as part of our nation's health care delivery system  
31 require greater coordination and cooperation among states in the areas  
32 of nurse licensure and regulation;

33 (d) New practice modalities and technology make compliance with indi-  
34 vidual state nurse licensure laws difficult and complex;

35 (e) The current system of duplicative licensure for nurses practicing  
36 in multiple states is cumbersome and redundant for both nurses and  
37 states; and

38 (f) Uniformity of nurse licensure requirements throughout the states  
39 promotes public safety and public health benefits.

40 2. The general purposes of this compact are to:

41 (a) Facilitate the states' responsibility to protect the public's  
42 health and safety;

43 (b) Ensure and encourage the cooperation of party states in the areas  
44 of nurse licensure and regulation;

45 (c) Facilitate the exchange of information between party states in the  
46 areas of nurse regulation, investigation and adverse actions;

47 (d) Promote compliance with the laws governing the practice of nursing  
48 in each jurisdiction;

49 (e) Invest all party states with the authority to hold a nurse  
50 accountable for meeting all state practice laws in the state in which  
51 the patient is located at the time care is rendered through the mutual  
52 recognition of party state licenses;

53 (f) Decrease redundancies in the consideration and issuance of nurse  
54 licenses; and

55 (g) Provide opportunities for interstate practice by nurses who meet  
56 uniform licensure requirements.

1     § 8888. Definitions. As used in this compact:

2     1. "Adverse action" means any administrative, civil, equitable or  
3 criminal action permitted by a state's laws which is imposed by a  
4 licensing board or other authority against a nurse, including actions  
5 against an individual's license or multistate licensure privilege such  
6 as revocation, suspension, probation, monitoring of the licensee, limi-  
7 tation on the licensee's practice, or any other encumbrance on licensure  
8 affecting a nurse's authorization to practice, including issuance of a  
9 cease and desist action.

10    2. "Alternative program" means a non-disciplinary monitoring program  
11 approved by a licensing board.

12    3. "Coordinated licensure information system" means an integrated  
13 process for collecting, storing and sharing information on nurse licen-  
14 sure and enforcement activities related to nurse licensure laws that is  
15 administered by a nonprofit organization composed of and controlled by  
16 licensing boards.

17    4. "Current significant investigative information" means:

18    (a) Investigative information that a licensing board, after a prelimi-  
19 nary inquiry that includes notification and an opportunity for the nurse  
20 to respond, if required by state law, has reason to believe is not  
21 groundless and, if proved true, would indicate more than a minor infrac-  
22 tion; or

23    (b) Investigative information that indicates that the nurse represents  
24 an immediate threat to public health and safety regardless of whether  
25 the nurse has been notified and had an opportunity to respond.

26    5. "Encumbrance" means a revocation or suspension of, or any limita-  
27 tion on, the full and unrestricted practice of nursing imposed by a  
28 licensing board.

29    6. "Home state" means the party state which is the nurse's primary  
30 state of residence.

31    7. "Licensing board" means a party state's regulatory body responsible  
32 for issuing nurse licenses.

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

37    9. "Multistate licensure privilege" means a legal authorization asso-  
38 ciated with a multistate license permitting the practice of nursing as  
39 either a registered nurse (RN) or LPN/VN in a remote state.

40    10. "Nurse" means RN or LPN/VN, as those terms are defined by each  
41 party state's practice laws.

42    11. "Party state" means any state that has adopted this compact.

43    12. "Remote state" means a party state, other than the home state.

44    13. "Single-state license" means a nurse license issued by a party  
45 state that authorizes practice only within the issuing state and does  
46 not include a multistate licensure privilege to practice in any other  
47 party state.

48    14. "State" means a state, territory or possession of the United  
49 States and the District of Columbia.

50    15. "State practice laws" means a party state's laws, rules and regu-  
51 lations that govern the practice of nursing, define the scope of nursing  
52 practice, and create the methods and grounds for imposing discipline.  
53 "State practice laws" do not include requirements necessary to obtain  
54 and retain a license, except for qualifications or requirements of the  
55 home state.

1     § 8889. General provisions and jurisdiction. 1. A multistate license  
2 to practice registered or licensed practical/vocational nursing issued  
3 by a home state to a resident in that state will be recognized by each  
4 party state as authorizing a nurse to practice as a registered nurse  
5 (RN) or as a licensed practical/vocational nurse (LPN/VN), under a  
6 multistate licensure privilege, in each party state.

7     2. A state must implement procedures for considering the criminal  
8 history records of applicants for initial multistate license or licen-  
9 sure by endorsement. Such procedures shall include the submission of  
10 fingerprints or other biometric-based information by applicants for the  
11 purpose of obtaining an applicant's criminal history record information  
12 from the federal bureau of investigation and the agency responsible for  
13 retaining that state's criminal records.

14     3. Each party state shall require the following for an applicant to  
15 obtain or retain a multistate license in the home state:

16     (a) Meets the home state's qualifications for licensure or renewal of  
17 licensure, as well as, all other applicable state laws;

18     (b)(i) Has graduated or is eligible to graduate from a licensing  
19 board-approved RN or LPN/VN pre-licensure education program; or

20     (ii) Has graduated from a foreign RN or LPN/VN pre-licensure education  
21 program that (1) has been approved by the authorized accrediting body in  
22 the applicable country and (2) has been verified by an independent  
23 credentials review agency to be comparable to a licensing board-approved  
24 pre-licensure education program;

25     (c) Has, if a graduate of a foreign pre-licensure education program  
26 not taught in English or if English is not the individual's native  
27 language, successfully passed an English proficiency examination that  
28 includes the components of reading, speaking, writing and listening;

29     (d) Has successfully passed an NCLEX-RN or NCLEX-PN examination or  
30 recognized predecessor, as applicable;

31     (e) Is eligible for or holds an active, unencumbered license;

32     (f) Has submitted, in connection with an application for initial  
33 licensure or licensure by endorsement, fingerprints or other biometric  
34 data for the purpose of obtaining criminal history record information  
35 from the federal bureau of investigation and the agency responsible for  
36 retaining that state's criminal records;

37     (g) Has not been convicted or found guilty, or has entered into an  
38 agreed disposition, of a felony offense under applicable state or feder-  
39 al criminal law;

40     (h) Has not been convicted or found guilty, or has entered into an  
41 agreed disposition, of a misdemeanor offense related to the practice of  
42 nursing as determined on a case-by-case basis;

43     (i) Is not currently enrolled in an alternative program;

44     (j) Is subject to self-disclosure requirements regarding current  
45 participation in an alternative program; and

46     (k) Has a valid United States social security number.

47     4. All party states shall be authorized, in accordance with existing  
48 state due process law, to take adverse action against a nurse's multi-  
49 state licensure privilege such as revocation, suspension, probation or  
50 any other action that affects a nurse's authorization to practice under  
51 a multistate licensure privilege, including cease and desist actions. If  
52 a party state takes such action, it shall promptly notify the adminis-  
53 trator of the coordinated licensure information system. The administra-  
54 tor of the coordinated licensure information system shall promptly noti-  
55 fy the home state of any such actions by remote states.

1     5. A nurse practicing in a party state must comply with the state  
2 practice laws of the state in which the client is located at the time  
3 service is provided. The practice of nursing is not limited to patient  
4 care, but shall include all nursing practice as defined by the state  
5 practice laws of the party state in which the client is located. The  
6 practice of nursing in a party state under a multistate licensure privi-  
7 lege will subject a nurse to the jurisdiction of the licensing board,  
8 the courts and the laws of the party state in which the client is  
9 located at the time service is provided.

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

17    7. Any nurse holding a home state multistate license, on the effective  
18 date of this compact, may retain and renew the multistate license issued  
19 by the nurse's then-current home state, provided that:

20     (a) A nurse, who changes primary state of residence after this  
21 compact's effective date, must meet all applicable requirements under  
22 subdivision three of this section to obtain a multistate license from a  
23 new home state.

24     (b) A nurse who fails to satisfy the multistate licensure requirements  
25 in subdivision three of this section due to a disqualifying event occur-  
26 ring after this compact's effective date shall be ineligible to retain  
27 or renew a multistate license, and the nurse's multistate license shall  
28 be revoked or deactivated in accordance with applicable rules adopted by  
29 the interstate commission of nurse licensure compact administrators  
30 ("commission").

31    § 8890. Applications for licensure in a party state. 1. Upon applica-  
32 tion for a multistate license, the licensing board in the issuing party  
33 state shall ascertain, through the coordinated licensure information  
34 system, whether the applicant has ever held, or is the holder of, a  
35 license issued by any other state, whether there are any encumbrances on  
36 any license or multistate licensure privilege held by the applicant,  
37 whether any adverse action has been taken against any license or multi-  
38 state licensure privilege held by the applicant and whether the appli-  
39 cant is currently participating in an alternative program.

40    2. A nurse may hold a multistate license, issued by the home state, in  
41 only one party state at a time.

42    3. If a nurse changes primary state of residence by moving between two  
43 party states, the nurse must apply for licensure in the new home state,  
44 and the multistate license issued by the prior home state will be deac-  
45 tivated in accordance with applicable rules adopted by the commission.

46     (a) The nurse may apply for licensure in advance of a change in prima-  
47 ry state of residence.

48     (b) A multistate license shall not be issued by the new home state  
49 until the nurse provides satisfactory evidence of a change in primary  
50 state of residence to the new home state and satisfies all applicable  
51 requirements to obtain a multistate license from the new home state.

52    4. If a nurse changes primary state of residence by moving from a  
53 party state to a non-party state, the multistate license issued by the  
54 prior home state will convert to a single-state license, valid only in  
55 the former home state.

1     § 8891. Additional authorities invested in party state licensing  
2 boards. 1. In addition to the other powers conferred by state law, a  
3 licensing board shall have the authority to:

4     (a) Take adverse action against a nurse's multistate licensure privi-  
5 lege to practice within that party state.

6     (i) Only the home state shall have the power to take adverse action  
7 against a nurse's license issued by the home state.

8     (ii) For purposes of taking adverse action, the home state licensing  
9 board shall give the same priority and effect to reported conduct  
10 received from a remote state as it would if such conduct had occurred  
11 within the home state. In so doing, the home state shall apply its own  
12 state laws to determine appropriate action.

13     (b) Issue cease and desist orders or impose an encumbrance on a  
14 nurse's authority to practice within that party state.

15     (c) Complete any pending investigations of a nurse who changes primary  
16 state of residence during the course of such investigations. The licens-  
17 ing board shall also have the authority to take appropriate action or  
18 actions and shall promptly report the conclusions of such investigations  
19 to the administrator of the coordinated licensure information system.  
20 The administrator of the coordinated licensure information system shall  
21 promptly notify the new home state of any such actions.

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

32     (e) Obtain and submit, for each nurse licensure applicant, fingerprint  
33 or other biometric-based information to the federal bureau of investi-  
34 gation for criminal background checks, receive the results of the feder-  
35 al bureau of investigation record search on criminal background checks  
36 and use the results in making licensure decisions.

37     (f) If otherwise permitted by state law, recover from the affected  
38 nurse the costs of investigations and disposition of cases resulting  
39 from any adverse action taken against that nurse.

40     (g) Take adverse action based on the factual findings of the remote  
41 state, provided that the licensing board follows its own procedures for  
42 taking such adverse action.

43     2. If adverse action is taken by the home state against a nurse's  
44 multistate license, the nurse's multistate licensure privilege to prac-  
45 tice in all other party states shall be deactivated until all encum-  
46 brances have been removed from the multistate license. All home state  
47 disciplinary orders that impose adverse action against a nurse's multi-  
48 state license shall include a statement that the nurse's multistate  
49 licensure privilege is deactivated in all party states during the  
50 pendency of the order.

51     3. Nothing in this compact shall override a party state's decision  
52 that participation in an alternative program may be used in lieu of  
53 adverse action. The home state licensing board shall deactivate the  
54 multistate licensure privilege under the multistate license of any nurse  
55 for the duration of the nurse's participation in an alternative program.



1     § 8892. Coordinated licensure information system and exchange of  
2 information. 1. All party states shall participate in a coordinated  
3 licensure information system of all licensed registered nurses (RN's)  
4 and licensed practical/vocational nurses (LPN's/VN's). This system will  
5 include information on the licensure and disciplinary history of each  
6 nurse, as submitted by party states, to assist in the coordination of  
7 nurse licensure and enforcement efforts.

8     2. The commission, in consultation with the administrator of the coor-  
9 ordinated licensure information system, shall formulate necessary and  
10 proper procedures for the identification, collection and exchange of  
11 information under this compact.

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

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

22     5. Notwithstanding any other provision of law, all party state licens-  
23 ing boards contributing information to the coordinated licensure infor-  
24 mation system may designate information that may not be shared with  
25 non-party states or disclosed to other entities or individuals without  
26 the express permission of the contributing state.

27     6. Any personally identifiable information obtained from the coordi-  
28 nated licensure information system by a party state licensing board  
29 shall not be shared with non-party states or disclosed to other entities  
30 or individuals except to the extent permitted by the laws of the party  
31 state contributing the information.

32     7. Any information contributed to the coordinated licensure informa-  
33 tion system that is subsequently required to be expunged by the laws of  
34 the party state contributing that information shall also be expunged  
35 from the coordinated licensure information system.

36     8. The compact administrator of each party state shall furnish a  
37 uniform data set to the compact administrator of each other party state,  
38 which shall include, at a minimum:

39     (a) Identifying information;

40     (b) Licensure data;

41     (c) Information related to alternative program participation; and

42     (d) Other information that may facilitate the administration of this  
43 compact, as determined by commission rules.

44     9. The compact administrator of a party state shall provide all inves-  
45 tigative documents and information requested by another party state.

46     § 8893. Establishment of the interstate commission of nurse licensure  
47 compact administrators.

48     1. The party states hereby create and establish a joint public entity  
49 known as the interstate commission of nurse licensure compact adminis-  
50 trators.

51     (a) The commission is an instrumentality of the party states.

52     (b) Venue is proper, and judicial proceedings by or against the  
53 commission shall be brought solely and exclusively, in a court of compe-  
54 tent jurisdiction where the principal office of the commission is  
55 located. The commission may waive venue and jurisdictional defenses to

1 the extent it adopts or consents to participate in alternative dispute  
2 resolution proceedings.

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

5 2. Membership, voting and meetings:

6 (a) Each party state shall have and be limited to one administrator.  
7 The head of the state licensing board or designee shall be the adminis-  
8 trator of this compact for each party state. Any administrator may be  
9 removed or suspended from office as provided by the law of the state  
10 from which the administrator is appointed. Any vacancy occurring in the  
11 commission shall be filled in accordance with the laws of the party  
12 state in which the vacancy exists.

13 (b) Each administrator shall be entitled to one vote with regard to  
14 the promulgation of rules and creation of bylaws and shall otherwise  
15 have an opportunity to participate in the business and affairs of the  
16 commission. An administrator shall vote in person or by such other means  
17 as provided in the bylaws. The bylaws may provide for an administrator's  
18 participation in meetings by telephone or other means of communication.

19 (c) The commission shall meet at least once during each calendar year.  
20 Additional meetings shall be held as set forth in the bylaws or rules of  
21 the commission.

22 (d) All meetings shall be open to the public, and public notice of  
23 meetings shall be given in the same manner as required under the rule-  
24 making provisions in section eighty-eight hundred ninety-four of this  
25 article.

26 (e) The commission may convene in a closed, nonpublic meeting if the  
27 commission must discuss:

28 (i) Noncompliance of a party state with its obligations under this  
29 compact;

30 (ii) The employment, compensation, discipline or other personnel  
31 matters, practices or procedures related to specific employees or other  
32 matters related to the commission's internal personnel practices and  
33 procedures;

34 (iii) Current, threatened or reasonably anticipated litigation;

35 (iv) Negotiation of contracts for the purchase or sale of goods,  
36 services or real estate;

37 (v) Accusing any person of a crime or formally censuring any person;

38 (vi) Disclosure of trade secrets or commercial or financial informa-  
39 tion that is privileged or confidential;

40 (vii) Disclosure of information of a personal nature where disclosure  
41 would constitute a clearly unwarranted invasion of personal privacy;

42 (viii) Disclosure of investigatory records compiled for law enforce-  
43 ment purposes;

44 (ix) Disclosure of information related to any reports prepared by or  
45 on behalf of the commission for the purpose of investigation of compli-  
46 ance with this compact; or

47 (x) Matters specifically exempted from disclosure by federal or state  
48 statute.

49 (f) If a meeting, or portion of a meeting, is closed pursuant to this  
50 provision, the commission's legal counsel or designee shall certify that  
51 the meeting may be closed and shall reference each relevant exempting  
52 provision. The commission shall keep minutes that fully and clearly  
53 describe all matters discussed in a meeting and shall provide a full and  
54 accurate summary of actions taken, and the reasons therefor, including a  
55 description of the views expressed. All documents considered in  
56 connection with an action shall be identified in such minutes. All

1 minutes and documents of a closed meeting shall remain under seal,  
2 subject to release by a majority vote of the commission or order of a  
3 court of competent jurisdiction.

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

8 (a) Establishing the fiscal year of the commission;

9 (b) Providing reasonable standards and procedures:

10 (i) For the establishment and meetings of other committees; and

11 (ii) Governing any general or specific delegation of any authority or  
12 function of the commission;

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

23 (d) Establishing the titles, duties and authority and reasonable  
24 procedures for the election of the officers of the commission;

25 (e) Providing reasonable standards and procedures for the establish-  
26 ment of the personnel policies and programs of the commission. Notwith-  
27 standing any civil service or other similar laws of any party state, the  
28 bylaws shall exclusively govern the personnel policies and programs of  
29 the commission; and

30 (f) Providing a mechanism for winding up the operations of the commis-  
31 sion and the equitable disposition of any surplus funds that may exist  
32 after the termination of this compact after the payment or reserving of  
33 all of its debts and obligations.

34 4. The commission shall publish its bylaws and rules, and any amend-  
35 ments thereto, in a convenient form on the website of the commission.

36 5. The commission shall maintain its financial records in accordance  
37 with the bylaws.

38 6. The commission shall meet and take such actions as are consistent  
39 with the provisions of this compact and the bylaws.

40 7. The commission shall have the following powers:

41 (a) To promulgate uniform rules to facilitate and coordinate implemen-  
42 tation and administration of this compact. The rules shall have the  
43 force and effect of law and shall be binding in all party states;

44 (b) To bring and prosecute legal proceedings or actions in the name of  
45 the commission, provided that the standing of any licensing board to sue  
46 or be sued under applicable law shall not be affected;

47 (c) To purchase and maintain insurance and bonds;

48 (d) To borrow, accept or contract for services of personnel, includ-  
49 ing, but not limited to, employees of a party state or nonprofit organ-  
50 izations;

51 (e) To cooperate with other organizations that administer state  
52 compacts related to the regulation of nursing, including but not limited  
53 to sharing administrative or staff expenses, office space or other  
54 resources;

55 (f) To hire employees, elect or appoint officers, fix compensation,  
56 define duties, grant such individuals appropriate authority to carry out

1 the purposes of this compact, and to establish the commission's person-  
2 nel policies and programs relating to conflicts of interest, qualifica-  
3 tions of personnel and other related personnel matters;

4 (g) To accept any and all appropriate donations, grants and gifts of  
5 money, equipment, supplies, materials and services, and to receive,  
6 utilize and dispose of the same; provided that at all times the commis-  
7 sion shall avoid any appearance of impropriety or conflict of interest;

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

12 (i) To sell, convey, mortgage, pledge, lease, exchange, abandon or  
13 otherwise dispose of any property, whether real, personal or mixed;

14 (j) To establish a budget and make expenditures;

15 (k) To borrow money;

16 (l) To appoint committees, including advisory committees comprised of  
17 administrators, state nursing regulators, state legislators or their  
18 representatives, and consumer representatives, and other such interested  
19 persons;

20 (m) To provide and receive information from, and to cooperate with,  
21 law enforcement agencies;

22 (n) To adopt and use an official seal; and

23 (o) To perform such other functions as may be necessary or appropriate  
24 to achieve the purposes of this compact consistent with the state regu-  
25 lation of nurse licensure and practice.

26 8. Financing of the commission:

27 (a) The commission shall pay, or provide for the payment of, the  
28 reasonable expenses of its establishment, organization and ongoing  
29 activities.

30 (b) The commission may also levy on and collect an annual assessment  
31 from each party state to cover the cost of its operations, activities  
32 and staff in its annual budget as approved each year. The aggregate  
33 annual assessment amount, if any, shall be allocated based upon a formu-  
34 la to be determined by the commission, which shall promulgate a rule  
35 that is binding upon all party states.

36 (c) The commission shall not incur obligations of any kind prior to  
37 securing the funds adequate to meet the same; nor shall the commission  
38 pledge the credit of any of the party states, except by, and with the  
39 authority of, such party state.

40 (d) The commission shall keep accurate accounts of all receipts and  
41 disbursements. The receipts and disbursements of the commission shall be  
42 subject to the audit and accounting procedures established under its  
43 bylaws. However, all receipts and disbursements of funds handled by the  
44 commission shall be audited yearly by a certified or licensed public  
45 accountant, and the report of the audit shall be included in and become  
46 part of the annual report of the commission.

47 9. Qualified immunity, defense and indemnification:

48 (a) The administrators, officers, executive director, employees and  
49 representatives of the commission shall be immune from suit and liabil-  
50 ity, either personally or in their official capacity, for any claim for  
51 damage to or loss of property or personal injury or other civil liabil-  
52 ity caused by or arising out of any actual or alleged act, error or  
53 omission that occurred, or that the person against whom the claim is  
54 made had a reasonable basis for believing occurred, within the scope of  
55 commission employment, duties or responsibilities; provided that nothing  
56 in this paragraph shall be construed to protect any such person from

1 suit or liability for any damage, loss, injury or liability caused by  
2 the intentional, willful or wanton misconduct of that person.

3 (b) The commission shall defend any administrator, officer, executive  
4 director, employee or representative of the commission in any civil  
5 action seeking to impose liability arising out of any actual or alleged  
6 act, error or omission that occurred within the scope of commission  
7 employment, duties or responsibilities, or that the person against whom  
8 the claim is made had a reasonable basis for believing occurred within  
9 the scope of commission employment, duties or responsibilities; provided  
10 that nothing herein shall be construed to prohibit that person from  
11 retaining his or her own counsel; and provided further that the actual  
12 or alleged act, error or omission did not result from that person's  
13 intentional, willful or wanton misconduct.

14 (c) The commission shall indemnify and hold harmless any administra-  
15 tor, officer, executive director, employee or representative of the  
16 commission for the amount of any settlement or judgment obtained against  
17 that person arising out of any actual or alleged act, error or omission  
18 that occurred within the scope of commission employment, duties or  
19 responsibilities, or that such person had a reasonable basis for believ-  
20 ing occurred within the scope of commission employment, duties or  
21 responsibilities, provided that the actual or alleged act, error or  
22 omission did not result from the intentional, willful or wanton miscon-  
23 duct of that person.

24 § 8894. Rulemaking. 1. The commission shall exercise its rulemaking  
25 powers pursuant to the criteria set forth in this article and the rules  
26 adopted thereunder. Rules and amendments shall become binding as of the  
27 date specified in each rule or amendment and shall have the same force  
28 and effect as provisions of this compact.

29 2. Rules or amendments to the rules shall be adopted at a regular or  
30 special meeting of the commission.

31 3. Prior to promulgation and adoption of a final rule or rules by the  
32 commission, and at least sixty days in advance of the meeting at which  
33 the rule will be considered and voted upon, the commission shall file a  
34 notice of proposed rulemaking:

35 (a) On the website of the commission; and

36 (b) On the website of each licensing board or the publication in which  
37 each state would otherwise publish proposed rules.

38 4. The notice of proposed rulemaking shall include:

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

41 (b) The text of the proposed rule or amendment, and the reason for the  
42 proposed rule;

43 (c) A request for comments on the proposed rule from any interested  
44 person; and

45 (d) The manner in which interested persons may submit notice to the  
46 commission of their intention to attend the public hearing and any writ-  
47 ten comments.

48 5. Prior to adoption of a proposed rule, the commission shall allow  
49 persons to submit written data, facts, opinions and arguments, which  
50 shall be made available to the public.

51 6. The commission shall grant an opportunity for a public hearing  
52 before it adopts a rule or amendment.

53 7. The commission shall publish the place, time and date of the sched-  
54 uled public hearing.

55 (a) Hearings shall be conducted in a manner providing each person who  
56 wishes to comment a fair and reasonable opportunity to comment orally or



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

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

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

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

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

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

23 (a) Meet an imminent threat to public health, safety or welfare;

24 (b) Prevent a loss of commission or party state funds; or

25 (c) Meet a deadline for the promulgation of an administrative rule  
26 that is required by federal law or rule.

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

39 § 8895. Oversight, dispute resolution and enforcement. 1. Oversight.

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

43 (b) The commission shall be entitled to receive service of process in  
44 any proceeding that may affect the powers, responsibilities or actions  
45 of the commission, and shall have standing to intervene in such a  
46 proceeding for all purposes. Failure to provide service of process in  
47 such proceeding to the commission shall render a judgment or order void  
48 as to the commission, this compact or promulgated rules.

49 2. Default, technical assistance and termination. (a) If the commis-  
50 sion determines that a party state has defaulted in the performance of  
51 its obligations or responsibilities under this compact or the promulgat-  
52 ed rules, the commission shall:

53 (i) Provide written notice to the defaulting state and other party  
54 states of the nature of the default, the proposed means of curing the  
55 default or any other action to be taken by the commission; and

1 (ii) Provide remedial training and specific technical assistance  
2 regarding the default.

3 (b) If a state in default fails to cure the default, the defaulting  
4 state's membership in this compact may be terminated upon an affirmative  
5 vote of a majority of the administrators, and all rights, privileges and  
6 benefits conferred by this compact may be terminated on the effective  
7 date of termination. A cure of the default does not relieve the offend-  
8 ing state of obligations or liabilities incurred during the period of  
9 default.

10 (c) Termination of membership in this compact shall be imposed only  
11 after all other means of securing compliance have been exhausted. Notice  
12 of intent to suspend or terminate shall be given by the commission to  
13 the governor of the defaulting state and to the executive officer of the  
14 defaulting state's licensing board and each of the party states.

15 (d) A state whose membership in this compact has been terminated is  
16 responsible for all assessments, obligations and liabilities incurred  
17 through the effective date of termination, including obligations that  
18 extend beyond the effective date of termination.

19 (e) The commission shall not bear any costs related to a state that is  
20 found to be in default or whose membership in this compact has been  
21 terminated unless agreed upon in writing between the commission and the  
22 defaulting state.

23 (f) The defaulting state may appeal the action of the commission by  
24 petitioning the United States District Court for the District of Colum-  
25 bia or the federal district in which the commission has its principal  
26 offices. The prevailing party shall be awarded all costs of such liti-  
27 gation, including reasonable attorneys' fees.

28 3. Dispute resolution. (a) Upon request by a party state, the commis-  
29 sion shall attempt to resolve disputes related to the compact that arise  
30 among party states and between party and non-party states.

31 (b) The commission shall promulgate a rule providing for both medi-  
32 ation and binding dispute resolution for disputes, as appropriate.

33 (c) In the event the commission cannot resolve disputes among party  
34 states arising under this compact:

35 (i) The party states may submit the issues in dispute to an arbi-  
36 tration panel, which will be comprised of individuals appointed by the  
37 compact administrator in each of the affected party states and an indi-  
38 vidual mutually agreed upon by the compact administrators of all the  
39 party states involved in the dispute.

40 (ii) The decision of a majority of the arbitrators shall be final and  
41 binding.

42 4. Enforcement. (a) The commission, in the reasonable exercise of its  
43 discretion, shall enforce the provisions and rules of this compact.

44 (b) By majority vote, the commission may initiate legal action in the  
45 United States District Court for the District of Columbia or the federal  
46 district in which the commission has its principal offices against a  
47 party state that is in default to enforce compliance with the provisions  
48 of this compact and its promulgated rules and bylaws. The relief sought  
49 may include both injunctive relief and damages. In the event judicial  
50 enforcement is necessary, the prevailing party shall be awarded all  
51 costs of such litigation, including reasonable attorneys' fees.

52 3. The remedies herein shall not be the exclusive remedies of the  
53 commission. The commission may pursue any other remedies available under  
54 federal or state law.

55 § 8896. Effective date, withdrawal and amendment.

1 1. This compact shall become effective and binding on the earlier of  
2 the date of legislative enactment of this compact into law by no less  
3 than twenty-six states or December thirty-first, two thousand eighteen.  
4 All party states to this compact, that also were parties to the prior  
5 nurse licensure compact, superseded by this compact, ("prior compact"),  
6 shall be deemed to have withdrawn from said prior compact within six  
7 months after the effective date of this compact.

8 2. Each party state to this compact shall continue to recognize a  
9 nurse's multistate licensure privilege to practice in that party state  
10 issued under the prior compact until such party state has withdrawn from  
11 the prior compact.

12 3. Any party state may withdraw from this compact by enacting a stat-  
13 ute repealing the same. A party state's withdrawal shall not take effect  
14 until six months after enactment of the repealing statute.

15 4. A party state's withdrawal or termination shall not affect the  
16 continuing requirement of the withdrawing or terminated state's licens-  
17 ing board to report adverse actions and significant investigations  
18 occurring prior to the effective date of such withdrawal or termination.

19 5. Nothing contained in this compact shall be construed to invalidate  
20 or prevent any nurse licensure agreement or other cooperative arrange-  
21 ment between a party state and a non-party state that is made in accord-  
22 ance with the other provisions of this compact.

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

26 7. Representatives of non-party states to this compact shall be  
27 invited to participate in the activities of the commission, on a nonvot-  
28 ing basis, prior to the adoption of this compact by all states.

29 § 8897. Construction and severability. This compact shall be liberally  
30 construed so as to effectuate the purposes thereof. The provisions of  
31 this compact shall be severable, and if any phrase, clause, sentence or  
32 provision of this compact is declared to be contrary to the constitution  
33 of any party state or of the United States, or if the applicability  
34 thereof to any government, agency, person or circumstance is held inval-  
35 id, the validity of the remainder of this compact and the applicability  
36 thereof to any government, agency, person or circumstance shall not be  
37 affected thereby. If this compact shall be held to be contrary to the  
38 constitution of any party state, this compact shall remain in full force  
39 and effect as to the remaining party states and in full force and effect  
40 as to the party state affected as to all severable matters.

41 § 2. This act shall take effect immediately.

42 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-  
43 sion, section or part of this act shall be adjudged by any court of  
44 competent jurisdiction to be invalid, such judgment shall not affect,  
45 impair, or invalidate the remainder thereof, but shall be confined in  
46 its operation to the clause, sentence, paragraph, subdivision, section  
47 or part thereof directly involved in the controversy in which such judg-  
48 ment shall have been rendered. It is hereby declared to be the intent of  
49 the legislature that this act would have been enacted even if such  
50 invalid provisions had not been included herein.

51 § 3. This act shall take effect immediately provided, however, that  
52 the applicable effective date of Parts A through B of this act shall be  
53 as specifically set forth in the last section of such Parts.