

STATE OF NEW YORK

3391

2023-2024 Regular Sessions

IN ASSEMBLY

February 2, 2023

Introduced by M. of A. O'DONNELL -- read once and referred to the
Committee on Higher Education

AN ACT to amend the education law, in relation to enacting the inter-
state medical licensure compact and the nurse licensure compact

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

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

ARTICLE 169

INTERSTATE MEDICAL LICENSURE COMPACT

Section 8860. Short title.

8861. Purpose.

8862. Definitions.

8863. Eligibility.

8864. Designation of state of principal license.

8865. Application and issuance of expedited licensure.

8866. Fees for expedited licensure.

8867. Renewal and continued participation.

8868. Coordinated information system.

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8871. Interstate medical licensure compact commission.

8872. Powers and duties of the interstate commission.

8873. Finance powers.

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8875. Rulemaking functions of the interstate commission.

8876. Oversight of interstate compact.

8877. Enforcement of interstate compact.

8878. Default procedures.

8879. Dispute resolution.

8880. Member states, effective date and amendment.

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

LBD07951-01-3

8881. Withdrawal.

8882. Dissolution.

8883. Severability and construction.

8884. Binding effect of compact and other laws.

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

§ 8861. Purpose. In order to strengthen access to health care, and in recognition of the advances in the delivery of health care, the member states of the interstate medical licensure compact have allied in common purpose to develop a comprehensive process that complements the existing licensing and regulatory authority of state medical boards, provides a streamlined process that allows physicians to become licensed in multiple states, thereby enhancing the portability of a medical license and ensuring the safety of patients. The compact creates another pathway for licensure and does not otherwise change a state's existing medical practice act. The compact also adopts the prevailing standard for licensure and affirms that the practice of medicine occurs where the patient is located at the time of the physician-patient encounter, and therefore, requires the physician to be under the jurisdiction of the state medical board where the patient is located. State medical boards that participate in the compact retain the jurisdiction to impose an adverse action against a license to practice medicine in that state issued to a physician through the procedures in the compact.

§ 8862. Definitions. In this compact:

1. "Bylaws" means those bylaws established by the interstate commission pursuant to section eighty-eight hundred seventy-one of this article for its governance, or for directing and controlling its actions and conduct.

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

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

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

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

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

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

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

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

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

11. "Physician" means any person who:

1 (a) Is a graduate of a medical school accredited by the Liaison
2 Committee on Medical Education, the Commission on Osteopathic College
3 Accreditation, or a medical school listed in the International Medical
4 Education Directory or its equivalent;

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

10 (c) Successfully completed graduate medical education approved by the
11 Accreditation Council for Graduate Medical Education or the American
12 Osteopathic Association;

13 (d) Holds specialty certification or a time-unlimited specialty
14 certificate recognized by the American Board of Medical Specialties or
15 the American Osteopathic Association's Bureau of Osteopathic Special-
16 ists;

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

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

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

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

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

31 12. "Offense" means a felony, gross misdemeanor, or crime of moral
32 turpitude.

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

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

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

46 § 8863. Eligibility. 1. A physician must meet the eligibility require-
47 ments as defined in subdivision eleven of section eighty-eight hundred
48 sixty-two of this article to receive an expedited license under the
49 terms and provisions of the compact.

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

55 § 8864. Designation of state of principal license. 1. A physician
56 shall designate a member state as the state of principal license for

1 purposes of registration for expedited licensure through the compact if
2 the physician possesses a full and unrestricted license to practice
3 medicine in that state, and the state is:

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

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

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

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

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

14 3. The interstate commission is authorized to develop rules to facili-
15 tate redesignation of another member state as the state of principal
16 license.

17 § 8865. Application and issuance of expedited licensure. 1. A physi-
18 cian seeking licensure through the compact shall file an application for
19 an expedited license with the member board of the state selected by the
20 physician as the state of principal license.

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

26 (a) Static qualifications, which include verification of medical
27 education, graduate medical education, results of any medical or licens-
28 ing examination, and other qualifications as determined by the inter-
29 state commission through rule, shall not be subject to additional prima-
30 ry source verification where already primary source verified by the
31 state of principal license.

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

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

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

47 4. After receiving verification of eligibility under subdivision two
48 of this section and any fees under subdivision three of this section, a
49 member board shall issue an expedited license to the physician. This
50 license shall authorize the physician to practice medicine in the issu-
51 ing state consistent with the medical practice act and all applicable
52 laws and regulations of the issuing member board and member state.

53 5. An expedited license shall be valid for a period consistent with
54 the licensure period in the member state and in the same manner as
55 required for other physicians holding a full and unrestricted license
56 within the member state.

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

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

8 § 8866. Fees for expedited licensure. 1. A member state issuing an
9 expedited license authorizing the practice of medicine in that state may
10 impose a fee for a license issued or renewed through the compact.

11 2. The interstate commission is authorized to develop rules regarding
12 fees for expedited licenses.

13 § 8867. Renewal and continued participation. 1. A physician seeking to
14 renew an expedited license granted in a member state shall complete a
15 renewal process with the interstate commission if the physician:

16 (a) Maintains a full and unrestricted license in a state of principal
17 license;

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

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

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

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

30 3. The interstate commission shall collect any renewal fees charged
31 for the renewal of a license and distribute the fees to the applicable
32 member board.

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

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

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

39 § 8868. Coordinated information system. 1. The interstate commission
40 shall establish a database of all physicians licensed, or who have
41 applied for licensure, under section eighty-eight hundred sixty-five of
42 this article.

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

47 3. Member boards shall report disciplinary or investigatory informa-
48 tion determined as necessary and proper by rule of the interstate
49 commission.

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

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

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

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

6 § 8869. Joint investigations. 1. Licensure and disciplinary records of
7 physicians are deemed investigative.

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

12 3. A subpoena issued by a member state shall be enforceable in other
13 member states.

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

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

20 § 8870. Disciplinary actions. 1. Any disciplinary action taken by any
21 member board against a physician licensed through the compact shall be
22 deemed unprofessional conduct which may be subject to discipline by
23 other member boards, in addition to any violation of the medical prac-
24 tice act or regulations in that state.

25 2. If a license granted to a physician by the member board in the
26 state of principal license is revoked, surrendered or relinquished in
27 lieu of discipline, or suspended, then all licenses issued to the physi-
28 cian by member boards shall automatically be placed, without further
29 action necessary by any member board, on the same status. If the member
30 board in the state of principal license subsequently reinstates the
31 physician's license, a license issued to the physician by any other
32 member board shall remain encumbered until that respective member board
33 takes action to reinstate the license in a manner consistent with the
34 medical practice act of that state.

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

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

41 (b) pursue separate disciplinary action against the physician under
42 its respective medical practice act, regardless of the action taken in
43 other member states.

44 4. If a license granted to a physician by a member board is revoked,
45 surrendered, or relinquished in lieu of discipline, or suspended, then
46 any license or licenses issued to the physician by any other member
47 board or boards shall be suspended, automatically and immediately with-
48 out further action necessary by the other member board or boards, for
49 ninety days upon entry of the order by the disciplining board, to permit
50 the member board or boards to investigate the basis for the action under
51 the medical practice act of that state. A member board may terminate the
52 automatic suspension of the license it issued prior to the completion of
53 the ninety day suspension period in a manner consistent with the medical
54 practice act of that state.

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

4 2. The purpose of the interstate commission is the administration of
5 the interstate medical licensure compact, which is a discretionary state
6 function.

7 3. The interstate commission shall be a body corporate and joint agen-
8 cy of the member states and shall have all the responsibilities, powers,
9 and duties set forth in the compact, and such additional powers as may
10 be conferred upon it by a subsequent concurrent action of the respective
11 legislatures of the member states in accordance with the terms of the
12 compact.

13 4. The interstate commission shall consist of two voting represen-
14 tatives appointed by each member state who shall serve as commissioners.
15 In states where allopathic and osteopathic physicians are regulated by
16 separate member boards, or if the licensing and disciplinary authority
17 is split between multiple member boards within a member state, the
18 member state shall appoint one representative from each member board. A
19 commissioner shall be a or an:

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

21 (b) Executive director, executive secretary, or similar executive of a
22 member board; or

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

24 5. The interstate commission shall meet at least once each calendar
25 year. A portion of this meeting shall be a business meeting to address
26 such matters as may properly come before the commission, including the
27 election of officers. The chairperson may call additional meetings and
28 shall call for a meeting upon the request of a majority of the member
29 states.

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

32 7. Each commissioner participating at a meeting of the interstate
33 commission is entitled to one vote. A majority of commissioners shall
34 constitute a quorum for the transaction of business, unless a larger
35 quorum is required by the bylaws of the interstate commission. A commis-
36 sioner shall not delegate a vote to another commissioner. In the absence
37 of its commissioner, a member state may delegate voting authority for a
38 specified meeting to another person from that state who shall meet the
39 requirements of subdivision four of this section.

40 8. The interstate commission shall provide public notice of all meet-
41 ings and all meetings shall be open to the public. The interstate
42 commission may close a meeting, in full or in portion, where it deter-
43 mines by a two-thirds vote of the commissioners present that an open
44 meeting would be likely to:

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

47 (b) Discuss matters specifically exempted from disclosure by federal
48 statute;

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

51 (d) Involve accusing a person of a crime, or formally censuring a
52 person;

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

55 (f) Discuss investigative records compiled for law enforcement
56 purposes; or

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

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

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

10 11. The interstate commission shall establish an executive committee,
11 which shall include officers, members, and others as determined by the
12 bylaws. The executive committee shall have the power to act on behalf of
13 the interstate commission, with the exception of rulemaking, during
14 periods when the interstate commission is not in session. When acting on
15 behalf of the interstate commission, the executive committee shall over-
16 see the administration of the compact including enforcement and compli-
17 ance with the provisions of the compact, its bylaws and rules, and other
18 such duties as necessary.

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

21 § 8872. Powers and duties of the interstate commission. The interstate
22 commission shall have the duty and power to:

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

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

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

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

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

36 6. Pay, or provide for the payment of the expenses related to the
37 establishment, organization, and ongoing activities of the interstate
38 commission;

39 7. Establish and maintain one or more offices;

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

41 9. Purchase and maintain insurance and bonds;

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

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

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

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

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

56 15. Establish a budget and make expenditures;

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

3 17. Report annually to the legislatures and governors of the member
4 states concerning the activities of the interstate commission during the
5 preceding year. Such reports shall also include reports of financial
6 audits and any recommendations that may have been adopted by the inter-
7 state commission;

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

10 19. Maintain records in accordance with the bylaws;

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

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

14 § 8873. Finance powers. 1. The interstate commission may levy on and
15 collect an annual assessment from each member state to cover the cost of
16 the operations and activities of the interstate commission and its
17 staff. The total assessment must be sufficient to cover the annual budg-
18 et approved each year for which revenue is not provided by other sourc-
19 es. The aggregate annual assessment amount shall be allocated upon a
20 formula to be determined by the interstate commission, which shall
21 promulgate a rule binding upon all member states.

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

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

26 4. The interstate commission shall be subject to a yearly financial
27 audit conducted by a certified or licensed public accountant and the
28 report of the audit shall be included in the annual report of the inter-
29 state commission.

30 § 8874. Organization and operation of the interstate commission. 1.
31 The interstate commission shall, by a majority of commissioners present
32 and voting, adopt bylaws to govern its conduct as may be necessary or
33 appropriate to carry out the purposes of the compact within twelve
34 months of the first interstate commission meeting.

35 2. The interstate commission shall elect or appoint annually from
36 among its commissioners a chairperson, a vice-chairperson, and a treas-
37 urer, each of whom shall have such authority and duties as may be speci-
38 fied in the bylaws. The chairperson, or in the chairperson's absence or
39 disability, the vice-chairperson, shall preside at all meetings of the
40 interstate commission.

41 3. Officers selected pursuant to subdivision two of this section shall
42 serve without remuneration from the interstate commission.

43 4. The officers and employees of the interstate commission shall be
44 immune from suit and liability, either personally or in their official
45 capacity, for a claim for damage to or loss of property or personal
46 injury or other civil liability caused or arising out of, or relating
47 to, an actual or alleged act, error, or omission that occurred, or that
48 such person had a reasonable basis for believing occurred, within the
49 scope of interstate commission employment, duties, or responsibilities;
50 provided that such person shall not be protected from suit or liability
51 for damage, loss, injury, or liability caused by the intentional or
52 willful and wanton misconduct of such person.

53 (a) The liability of the executive director and employees of the
54 interstate commission or representatives of the interstate commission,
55 acting within the scope of such person's employment or duties for acts,
56 errors, or omissions occurring within such person's state, may not

1 exceed the limits of liability set forth under the constitution and laws
2 of that state for state officials, employees, and agents. The interstate
3 commission is considered to be an instrumentality of the states for the
4 purposes of any such action. Nothing in this paragraph shall be
5 construed to protect such person from suit or liability for damage,
6 loss, injury, or liability caused by the intentional or willful and
7 wanton misconduct of such person.

8 (b) The interstate commission shall defend the executive director, its
9 employees, and subject to the approval of the attorney general or other
10 appropriate legal counsel of the member state represented by an inter-
11 state commission representative, shall defend such interstate commission
12 representative in any civil action seeking to impose liability arising
13 out of an actual or alleged act, error or omission that occurred within
14 the scope of interstate commission employment, duties or responsibil-
15 ities, or that the defendant had a reasonable basis for believing
16 occurred within the scope of interstate commission employment, duties,
17 or responsibilities, provided that the actual or alleged act, error, or
18 omission did not result from intentional or willful and wanton miscon-
19 duct on the part of such person.

20 (c) To the extent not covered by the state involved, member state, or
21 the interstate commission, the representatives or employees of the
22 interstate commission shall be held harmless in the amount of a settle-
23 ment or judgment, including attorney's fees and costs, obtained against
24 such persons arising out of an actual or alleged act, error, or omission
25 that occurred within the scope of interstate commission employment,
26 duties, or responsibilities, or that such persons had a reasonable basis
27 for believing occurred within the scope of interstate commission employ-
28 ment, duties, or responsibilities, provided that the actual or alleged
29 act, error, or omission did not result from intentional or willful and
30 wanton misconduct on the part of such persons.

31 § 8875. Rulemaking functions of the interstate commission. 1. The
32 interstate commission shall promulgate reasonable rules in order to
33 effectively and efficiently achieve the purposes of the compact.
34 Notwithstanding the foregoing, in the event the interstate commission
35 exercises its rulemaking authority in a manner that is beyond the scope
36 of the purposes of the compact, or the powers granted hereunder, then
37 such an action by the interstate commission shall be invalid and have no
38 force or effect.

39 2. Rules deemed appropriate for the operations of the interstate
40 commission shall be made pursuant to a rulemaking process that substan-
41 tially conforms to the federal Model State Administrative Procedure Act
42 of 2010, and subsequent amendments thereto.

43 3. Not later than thirty days after a rule is promulgated, any person
44 may file a petition for judicial review of the rule in the United States
45 District Court for the District of Columbia or the federal district
46 where the interstate commission has its principal offices, provided that
47 the filing of such a petition shall not stay or otherwise prevent the
48 rule from becoming effective unless the court finds that the petitioner
49 has a substantial likelihood of success. The court shall give deference
50 to the actions of the interstate commission consistent with applicable
51 law and shall not find the rule to be unlawful if the rule represents a
52 reasonable exercise of the authority granted to the interstate commis-
53 sion.

54 § 8876. Oversight of interstate compact. 1. The executive, legisla-
55 tive, and judicial branches of state government in each member state
56 shall enforce the compact and shall take all actions necessary and

1 appropriate to effectuate the compact's purposes and intent. The
2 provisions of the compact and the rules promulgated hereunder shall have
3 standing as statutory law but shall not override existing state authori-
4 ty to regulate the practice of medicine.

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

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

14 § 8877. Enforcement of interstate compact. 1. The interstate commis-
15 sion, in the reasonable exercise of its discretion, shall enforce the
16 provisions and rules of the compact.

17 2. The interstate commission may, by majority vote of the commis-
18 sioners, initiate legal action in the United States District Court for the
19 District of Columbia, or, at the discretion of the interstate commis-
20 sion, in the federal district where the interstate commission has its
21 principal offices, to enforce compliance with the provisions of the
22 compact, and its promulgated rules and bylaws, against a member state in
23 default. The relief sought may include both injunctive relief and
24 damages. In the event judicial enforcement is necessary, the prevailing
25 party shall be awarded all costs of such litigation including reasonable
26 attorney's fees.

27 3. The remedies herein shall not be the exclusive remedies of the
28 interstate commission. The interstate commission may avail itself of
29 any other remedies available under state law or the regulation of a
30 profession.

31 § 8878. Default procedures. 1. The grounds for default include, but
32 are not limited to, failure of a member state to perform such obli-
33 gations or responsibilities imposed upon it by the compact, or the rules
34 and bylaws of the interstate commission promulgated under the compact.

35 2. If the interstate commission determines that a member state has
36 defaulted in the performance of its obligations or responsibilities
37 under the compact, or the bylaws or promulgated rules, the interstate
38 commission shall:

39 (a) Provide written notice to the defaulting state and other member
40 states, of the nature of the default, the means of curing the default,
41 and any action taken by the interstate commission. The interstate
42 commission shall specify the conditions by which the defaulting state
43 must cure its default; and

44 (b) Provide remedial training and specific technical assistance
45 regarding the default.

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

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

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

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

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

12 8. The defaulting state may appeal the action of the interstate
13 commission by petitioning the United States District Court for the
14 District of Columbia or the federal district where the interstate
15 commission has its principal offices. The prevailing party shall be
16 awarded all costs of such litigation including reasonable attorney's
17 fees.

18 § 8879. Dispute resolution. 1. The interstate commission shall
19 attempt, upon the request of a member state, to resolve disputes which
20 are subject to the compact and which may arise among member states or
21 member boards.

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

24 § 8880. Member states, effective date and amendment. 1. Any state is
25 eligible to become a member state of the compact.

26 2. The compact shall become effective and binding upon legislative
27 enactment of the compact into law by no less than seven states. There-
28 after, it shall become effective and binding on a state upon enactment
29 of the compact into law by that state.

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

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

37 § 8881. Withdrawal. 1. Once effective, the compact shall continue in
38 force and remain binding upon each and every member state; provided that
39 a member state may withdraw from the compact by specifically repealing
40 the statute which enacted the compact into law.

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

46 3. The withdrawing state shall immediately notify the chairperson of
47 the interstate commission in writing upon the introduction of legis-
48 lation repealing the compact in the withdrawing state.

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

52 5. The withdrawing state is responsible for all dues, obligations and
53 liabilities incurred through the effective date of withdrawal, including
54 obligations, the performance of which extend beyond the effective date
55 of withdrawal.

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

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

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

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

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

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

3. Nothing in the compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

§ 8884. Binding effect of compact and other laws. 1. Nothing contained in this article shall prevent the enforcement of any other law of a member state that is not inconsistent with the compact.

2. All laws in a member state in conflict with the compact are superseded to the extent of the conflict.

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

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

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

§ 2. Article 170 of the education law, as renumbered by chapter 905 of the laws of 1990, is renumbered article 171 and a new article 170 is added to title 8 of the education law to read as follows:

ARTICLE 170

NURSE LICENSURE COMPACT

Section 8900. Nurse licensure compact.

8901. Findings and declaration of purpose.

8902. Definitions.

8903. General provisions and jurisdiction.

8904. Applications for licensure in a party state.

8905. Additional authorities invested in party state licensing boards.

8906. Coordinated licensure information system and exchange of information.

8907. Establishment of the interstate commission of nurse licensure compact administrators.

8908. Rulemaking.

8909. Oversight, dispute resolution and enforcement.

8910. Effective date, withdrawal and amendment.

8911. Construction and severability.

1 § 8900. Nurse licensure compact. The nurse license compact as set
2 forth in the article is hereby adopted and entered into with all party
3 states joining therein.

4 § 8901. Findings and declaration of purpose 1. Findings. The party
5 states find that:

6 a. The health and safety of the public are affected by the degree of
7 compliance with and the effectiveness of enforcement activities related
8 to state nurse licensure laws;

9 b. Violations of nurse licensure and other laws regulating the prac-
10 tice of nursing may result in injury or harm to the public;

11 c. The expanded mobility of nurses and the use of advanced communi-
12 cation technologies as part of our nation's health care delivery system
13 require greater coordination and cooperation among states in the areas
14 of nurse licensure and regulation;

15 d. New practice modalities and technology make compliance with indi-
16 vidual state nurse licensure laws difficult and complex;

17 e. The current system of duplicative licensure for nurses practicing
18 in multiple states is cumbersome and redundant for both nurses and
19 states; and

20 f. Uniformity of nurse licensure requirements throughout the states
21 promotes public safety and public health benefits.

22 2. Declaration of purpose. The general purposes of this compact are
23 to:

24 a. Facilitate the states' responsibility to protect the public's
25 health and safety;

26 b. Ensure and encourage the cooperation of party states in the areas
27 of nurse licensure and regulation;

28 c. Facilitate the exchange of information between party states in the
29 areas of nurse regulation, investigation and adverse actions;

30 d. Promote compliance with the laws governing the practice of nursing
31 in each jurisdiction;

32 e. Invest all party states with the authority to hold a nurse account-
33 able for meeting all state practice laws in the state in which the
34 patient is located at the time care is rendered through the mutual
35 recognition of party state licenses;

36 f. Decrease redundancies in the consideration and issuance of nurse
37 licenses; and

38 g. Provide opportunities for interstate practice by nurses who meet
39 uniform licensure requirements.

40 § 8902. Definitions. 1. Definitions. As used in this compact:

41 a. "Adverse action" means any administrative, civil, equitable or
42 criminal action permitted by a state's laws which is imposed by a
43 licensing board or other authority against a nurse, including actions
44 against an individual's license or multistate licensure privilege such
45 as revocation, suspension, probation, monitoring of the licensee, limi-
46 tation on the licensee's practice, or any other encumbrance on licensure
47 affecting a nurse's authorization to practice, including issuance of a
48 cease and desist action.

49 b. "Alternative program" means a non-disciplinary monitoring program
50 approved by a licensing board.

51 c. "Coordinated licensure information system" means an integrated
52 process for collecting, storing and sharing information on nurse licen-
53 sure and enforcement activities related to nurse licensure laws that is
54 administered by a nonprofit organization composed of and controlled by
55 licensing boards.

1 d. "Commission" means the interstate commission of nurse licensure
2 compact administrators.

3 e. "Current significant investigative information" means:

4 1. Investigative information that a licensing board, after a prelimi-
5 nary inquiry that includes notification and an opportunity for the nurse
6 to respond, if required by state law, has reason to believe is not
7 groundless and, if proved true, would indicate more than a minor infrac-
8 tion; or

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

12 3. Any information concerning a nurse reported to a licensing board by
13 a health care entity, health care professional, or any other person,
14 which indicates that the nurse demonstrated an impairment, gross incom-
15 petence, or unprofessional conduct that would present an imminent danger
16 to a patient or the public health, safety, or welfare.

17 f. "Encumbrance" means a revocation or suspension of, or any limita-
18 tion on, the full and unrestricted practice of nursing imposed by a
19 licensing board.

20 g. "Home state" means the party state which is the nurse's primary
21 state of residence.

22 h. "Licensing board" means a party state's regulatory body responsible
23 for issuing nurse licenses.

24 i. "Multistate license" means a license to practice as a registered
25 nurse (RN) or as a licensed practical/vocational nurse (LPN/VN), which
26 is issued by a home state licensing board, and which authorizes the
27 licensed nurse to practice in all party states under a multistate licen-
28 sure privilege.

29 j. "Multistate licensure privilege" means a legal authorization asso-
30 ciated with a multistate license permitting the practice of nursing as
31 either a RN or a LPN/VN in a remote state.

32 k. "Nurse" means RN or LPN/VN, as those terms are defined by each
33 party state's practice laws.

34 l. "Party state" means any state that has adopted this compact.

35 m. "Remote state" means a party state, other than the home state.

36 n. "Single-state license" means a nurse license issued by a party
37 state that authorizes practice only within the issuing state and does
38 not include a multistate licensure privilege to practice in any other
39 party state.

40 o. "State" means a state, territory or possession of the United States
41 and the District of Columbia.

42 p. "State practice laws" means a party state's laws, rules and regu-
43 lations that govern the practice of nursing, define the scope of nursing
44 practice, and create the methods and grounds for imposing discipline.
45 "State practice laws" shall not include requirements necessary to obtain
46 and retain a license, except for qualifications or requirements of the
47 home state.

48 § 8903. General provisions and jurisdiction. 1. General provisions and
49 jurisdiction. a. A multistate license to practice registered or licensed
50 practical/vocational nursing issued by a home state to a resident in
51 that state will be recognized by each party state as authorizing a nurse
52 to practice as a registered nurse (RN) or as a licensed
53 practical/vocational nurse (LPN/VN), under a multistate licensure privi-
54 lege, in each party state.

55 b. A state shall implement procedures for considering the criminal
56 history records of applicants for an initial multistate license or

1 licensure by endorsement. Such procedures shall include the submission
2 of fingerprints or other biometric-based information by applicants for
3 the purpose of obtaining an applicant's criminal history record informa-
4 tion from the federal bureau of investigation and the agency responsible
5 for retaining that state's criminal records.

6 c. Each party state shall require its licensing board to authorize an
7 applicant to obtain or retain a multistate license in the home state
8 only if the applicant:

9 i. Meets the home state's qualifications for licensure or renewal of
10 licensure, and complies with all other applicable state laws;

11 ii. (1) Has graduated or is eligible to graduate from a licensing
12 board-approved RN or LPN/VN prelicensure education program; or

13 (2) Has graduated from a foreign RN or LPN/VN prelicensure education
14 program that has been: (A) approved by the authorized accrediting body
15 in the applicable country, and (B) verified by an independent creden-
16 tials review agency to be comparable to a licensing board-approved pre-
17 licensure education program;

18 iii. Has, if a graduate of a foreign prelicensure education program
19 not taught in English or if English is not the individual's native
20 language, successfully passed an English proficiency examination that
21 includes the components of reading, speaking, writing and listening;

22 iv. Has successfully passed an NCLEX-RN or NCLEX-PN examination or
23 recognized predecessor, as applicable;

24 v. Is eligible for or holds an active, unencumbered license;

25 vi. Has submitted, in connection with an application for initial
26 licensure or licensure by endorsement, fingerprints or other biometric
27 data for the purpose of obtaining criminal history record information
28 from the federal bureau of investigation and the agency responsible for
29 retaining that state's criminal records;

30 vii. Has not been convicted or found guilty, or has entered into an
31 agreed disposition, of a felony offense under applicable state or feder-
32 al criminal law;

33 viii. Has not been convicted or found guilty, or has entered into an
34 agreed disposition, of a misdemeanor offense related to the practice of
35 nursing as determined on a case-by-case basis;

36 ix. Is not currently enrolled in an alternative program;

37 x. Is subject to self-disclosure requirements regarding current
38 participation in an alternative program; and

39 xi. Has a valid United States social security number.

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

49 e. A nurse practicing in a party state shall comply with the state
50 practice laws of the state in which the client is located at the time
51 service is provided. The practice of nursing is not limited to patient
52 care but shall include all nursing practice as defined by the state
53 practice laws of the party state in which the client is located. The
54 practice of nursing in a party state under a multistate licensure privi-
55 lege will subject a nurse to the jurisdiction of the licensing board,

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

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

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

13 i. A nurse, who changes primary state of residence after this
14 compact's effective date, shall meet all applicable requirements set
15 forth in this article to obtain a multistate license from a new home
16 state.

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

23 § 8904. Applications for licensure in a party state. 1. Applications
24 for licensure in a party state. a. Upon application for a multistate
25 license, the licensing board in the issuing party state shall ascertain,
26 through the coordinated licensure information system, whether the appli-
27 cant has ever held, or is the holder of, a license issued by any other
28 state, whether there are any encumbrances on any license or multistate
29 licensure privilege held by the applicant, whether any adverse action
30 has been taken against any license or multistate licensure privilege
31 held by the applicant and whether the applicant is currently participat-
32 ing in an alternative program.

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

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

39 i. The nurse may apply for licensure in advance of a change in primary
40 state of residence.

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

45 d. If a nurse changes primary state of residence by moving from a
46 party state to a non-party state, the multistate license issued by the
47 prior home state will convert to a single-state license, valid only in
48 the former home state.

49 § 8905. Additional authorities invested in party state licensing
50 boards. 1. Licensing board authority. In addition to the other powers
51 conferred by state law, a licensing board shall have the authority to:

52 a. Take adverse action against a nurse's multistate licensure privi-
53 lege to practice within that party state.

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

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

6 b. Issue cease and desist orders or impose an encumbrance on a nurse's
7 authority to practice within that party state.

8 c. Complete any pending investigations of a nurse who changes primary
9 state of residence during the course of such investigations. The licens-
10 ing board shall also have the authority to take appropriate action or
11 actions and shall promptly report the conclusions of such investigations
12 to the administrator of the coordinated licensure information system.
13 The administrator of the coordinated licensure information system shall
14 promptly notify the new home state of any such actions.

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

25 e. Obtain and submit, for each nurse licensure applicant, fingerprint
26 or other biometric-based information to the federal bureau of investi-
27 gation for criminal background checks, receive the results of the feder-
28 al bureau of investigation record search on criminal background checks
29 and use the results in making licensure decisions.

30 f. If otherwise permitted by state law, recover from the affected
31 nurse the costs of investigations and disposition of cases resulting
32 from any adverse action taken against that nurse.

33 g. Take adverse action based on the factual findings of the remote
34 state, provided that the licensing board follows its own procedures for
35 taking such adverse action.

36 2. Adverse actions. a. If adverse action is taken by the home state
37 against a nurse's multistate license, the nurse's multistate licensure
38 privilege to practice in all other party states shall be deactivated
39 until all encumbrances have been removed from the multistate license.
40 All home state disciplinary orders that impose adverse action against a
41 nurse's multistate license shall include a statement that the nurse's
42 multistate licensure privilege is deactivated in all party states during
43 the pendency of the order.

44 b. Nothing in this compact shall override a party state's decision
45 that participation in an alternative program may be used in lieu of
46 adverse action. The home state licensing board shall deactivate the
47 multistate licensure privilege under the multistate license of any nurse
48 for the duration of the nurse's participation in an alternative program.

49 § 8906. Coordinated licensure information system and exchange of
50 information. 1. Coordinated licensure information system and exchange
51 of information. a. All party states shall participate in a coordinated
52 licensure information system of all licensed registered nurses (RNs) and
53 licensed practical/vocational nurses (LPNs/VNs). This system will
54 include information on the licensure and disciplinary history of each
55 nurse, as submitted by party states, to assist in the coordination of
56 nurse licensure and enforcement efforts.

1 b. The commission, in consultation with the administrator of the coor-
2 ordinated licensure information system, shall formulate necessary and
3 proper procedures for the identification, collection and exchange of
4 information under this compact.

5 c. All licensing boards shall promptly report to the coordinated
6 licensure information system any adverse action, any current significant
7 investigative information, denials of applications with the reasons for
8 such denials and nurse participation in alternative programs known to
9 the licensing board regardless of whether such participation is deemed
10 nonpublic or confidential under state law.

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

15 e. Notwithstanding any other provision of law, all party state licens-
16 ing boards contributing information to the coordinated licensure infor-
17 mation system may designate information that may not be shared with
18 non-party states or disclosed to other entities or individuals without
19 the express permission of the contributing state.

20 f. Any personally identifiable information obtained from the coordi-
21 nated licensure information system by a party state licensing board
22 shall not be shared with non-party states or disclosed to other entities
23 or individuals except to the extent permitted by the laws of the party
24 state contributing the information.

25 g. Any information contributed to the coordinated licensure informa-
26 tion system that is subsequently required to be expunged by the laws of
27 the party state contributing that information shall also be expunged
28 from the coordinated licensure information system.

29 h. The compact administrator of each party state shall furnish a
30 uniform data set to the compact administrator of each other party state,
31 which shall include, at a minimum:

32 i. Identifying information;

33 ii. Licensure data;

34 iii. Information related to alternative program participation; and

35 iv. Other information that may facilitate the administration of this
36 compact, as determined by commission rules.

37 i. The compact administrator of a party state shall provide all inves-
38 titigative documents and information requested by another party state.

39 § 8907. Establishment of the interstate commission of nurse licensure
40 compact administrators. 1. Commission of nurse licensure compact admin-
41 istrators. The party states hereby create and establish a joint public
42 entity known as the interstate commission of nurse licensure compact
43 administrators. The commission is an instrumentality of the party
44 states.

45 2. Venue. Venue is proper, and judicial proceedings by or against the
46 commission shall be brought solely and exclusively, in a court of compe-
47 tent jurisdiction where the principal office of the commission is
48 located. The commission may waive venue and jurisdictional defenses to
49 the extent it adopts or consents to participate in alternative dispute
50 resolution proceedings.

51 3. Sovereign immunity. Nothing in this compact shall be construed to
52 be a waiver of sovereign immunity.

53 4. Membership, voting and meetings. a. Each party state shall have and
54 be limited to one administrator. The head of the state licensing board
55 or designee shall be the administrator of this compact for each party
56 state. Any administrator may be removed or suspended from office as

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

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

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

13 d. All meetings shall be open to the public, and public notice of
14 meetings shall be given in the same manner as required under the rule-
15 making provisions in section eighty-nine hundred three of this article.

16 5. Closed meetings. a. The commission may convene in a closed, nonpub-
17 lic meeting if the commission shall discuss:

18 i. Noncompliance of a party state with its obligations under this
19 compact;

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

24 iii. Current, threatened or reasonably anticipated litigation;

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

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

28 vi. Disclosure of trade secrets or commercial or financial information
29 that is privileged or confidential;

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

32 viii. Disclosure of investigatory records compiled for law enforcement
33 purposes;

34 ix. Disclosure of information related to any reports prepared by or on
35 behalf of the commission for the purpose of investigation of compliance
36 with this compact; or

37 x. Matters specifically exempted from disclosure by federal or state
38 statute.

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

50 c. The commission shall, by a majority vote of the administrators,
51 prescribe bylaws or rules to govern its conduct as may be necessary or
52 appropriate to carry out the purposes and exercise the powers of this
53 compact, including but not limited to:

54 i. Establishing the fiscal year of the commission;

55 ii. Providing reasonable standards and procedures:

56 (1) For the establishment and meetings of other committees; and

1 (2) Governing any general or specific delegation of any authority or
2 function of the commission;

3 iii. Providing reasonable procedures for calling and conducting meet-
4 ings of the commission, ensuring reasonable advance notice of all meet-
5 ings and providing an opportunity for attendance of such meetings by
6 interested parties, with enumerated exceptions designed to protect the
7 public's interest, the privacy of individuals, and proprietary informa-
8 tion, including trade secrets. The commission may meet in closed session
9 only after a majority of the administrators vote to close a meeting in
10 whole or in part. As soon as practicable, the commission must make
11 public a copy of the vote to close the meeting revealing the vote of
12 each administrator, with no proxy votes allowed;

13 iv. Establishing the titles, duties and authority and reasonable
14 procedures for the election of the officers of the commission;

15 v. Providing reasonable standards and procedures for the establishment
16 of the personnel policies and programs of the commission. Notwithstand-
17 ing any civil service or other similar laws of any party state, the
18 bylaws shall exclusively govern the personnel policies and programs of
19 the commission; and

20 vi. Providing a mechanism for winding up the operations of the commis-
21 sion and the equitable disposition of any surplus funds that may exist
22 after the termination of this compact after the payment or reserving of
23 all of its debts and obligations.

24 6. General provisions. a. The commission shall publish its bylaws and
25 rules, and any amendments thereto, in a convenient form on the website
26 of the commission.

27 b. The commission shall maintain its financial records in accordance
28 with the bylaws.

29 c. The commission shall meet and take such actions as are consistent
30 with the provisions of this compact and the bylaws.

31 7. Powers of the commission. The commission shall have the following
32 powers:

33 a. To promulgate uniform rules to facilitate and coordinate implemen-
34 tation and administration of this compact. The rules shall have the
35 force and effect of law and shall be binding in all party states;

36 b. To bring and prosecute legal proceedings or actions in the name of
37 the commission, provided that the standing of any licensing board to sue
38 or be sued under applicable law shall not be affected;

39 c. To purchase and maintain insurance and bonds;

40 d. To borrow, accept or contract for services of personnel, including,
41 but not limited to, employees of a party state or nonprofit organiza-
42 tions;

43 e. To cooperate with other organizations that administer state
44 compacts related to the regulation of nursing, including but not limited
45 to sharing administrative or staff expenses, office space or other
46 resources;

47 f. To hire employees, elect or appoint officers, fix compensation,
48 define duties, grant such individuals appropriate authority to carry out
49 the purposes of this compact, and to establish the commission's person-
50 nel policies and programs relating to conflicts of interest, qualifica-
51 tions of personnel and other related personnel matters;

52 g. To accept any and all appropriate donations, grants and gifts of
53 money, equipment, supplies, materials and services, and to receive,
54 utilize and dispose of the same; provided that at all times the commis-
55 sion shall avoid any appearance of impropriety or conflict of interest;

1 h. To lease, purchase, accept appropriate gifts or donations of, or
2 otherwise to own, hold, improve or use, any property, whether real,
3 personal or mixed; provided that at all times the commission shall avoid
4 any appearance of impropriety;

5 i. To sell, convey, mortgage, pledge, lease, exchange, abandon or
6 otherwise dispose of any property, whether real, personal or mixed;

7 j. To establish a budget and make expenditures;

8 k. To borrow money;

9 l. To appoint committees, including advisory committees comprised of
10 administrators, state nursing regulators, state legislators or their
11 representatives, and consumer representatives, and other such interested
12 persons;

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

15 n. To adopt and use an official seal; and

16 o. To perform such other functions as may be necessary or appropriate
17 to achieve the purposes of this compact consistent with the state regu-
18 lation of nurse licensure and practice.

19 8. Financing of the commission. a. The commission shall pay, or
20 provide for the payment of, the reasonable expenses of its establish-
21 ment, organization and ongoing activities.

22 b. The commission may also levy on and collect an annual assessment
23 from each party state to cover the cost of its operations, activities
24 and staff in its annual budget as approved each year. The aggregate
25 annual assessment amount, if any, shall be allocated based upon a formu-
26 la to be determined by the commission, which shall promulgate a rule
27 that is binding upon all party states.

28 c. The commission shall not incur obligations of any kind prior to
29 securing the funds adequate to meet the same; nor shall the commission
30 pledge the credit of any of the party states, except by, and with the
31 authority of, such party state.

32 d. The commission shall keep accurate accounts of all receipts and
33 disbursements. The receipts and disbursements of the commission shall be
34 subject to the audit and accounting procedures established under its
35 bylaws. However, all receipts and disbursements of funds handled by the
36 commission shall be audited yearly by a certified or licensed public
37 accountant, and the report of the audit shall be included in and become
38 part of the annual report of the commission.

39 9. Qualified immunity, defense and indemnification. a. The administra-
40 tors, officers, executive director, employees and representatives of the
41 commission shall be immune from suit and liability, either personally or
42 in their official capacity, for any claim for damage to or loss of prop-
43 erty or personal injury or other civil liability caused by or arising
44 out of any actual or alleged act, error or omission that occurred, or
45 that the person against whom the claim is made had a reasonable basis
46 for believing occurred, within the scope of the commission's employment,
47 duties or responsibilities; provided that nothing in this paragraph
48 shall be construed to protect any such person from suit or liability for
49 any damage, loss, injury or liability caused by the intentional, willful
50 or wanton misconduct of that person.

51 b. The commission shall defend any administrator, officer, executive
52 director, employee or representative of the commission in any civil
53 action seeking to impose liability arising out of any actual or alleged
54 act, error or omission that occurred within the scope of the commis-
55 sion's employment, duties or responsibilities, or that the person
56 against whom the claim is made had a reasonable basis for believing

1 occurred within the scope of the commission's employment, duties or
2 responsibilities; provided that nothing herein shall be construed to
3 prohibit that person from retaining his or her own counsel; and provided
4 further that the actual or alleged act, error or omission did not result
5 from that person's intentional, willful or wanton misconduct.

6 c. The commission shall indemnify and hold harmless any administrator,
7 officer, executive director, employee or representative of the commis-
8 sion for the amount of any settlement or judgment obtained against that
9 person arising out of any actual or alleged act, error or omission that
10 occurred within the scope of the commission's employment, duties or
11 responsibilities, or that such person had a reasonable basis for believ-
12 ing occurred within the scope of the commission's employment, duties or
13 responsibilities, provided that the actual or alleged act, error or
14 omission did not result from the intentional, willful or wanton miscon-
15 duct of that person.

16 § 8908. Rulemaking. 1. Rulemaking. a. The commission shall exercise
17 its rulemaking powers pursuant to the criteria set forth in this article
18 and the rules adopted thereunder. Rules and amendments shall become
19 binding as of the date specified in each rule or amendment and shall
20 have the same force and effect as provisions of this compact.

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

23 2. Notice. a. Prior to promulgation and adoption of a final rule or
24 rules by the commission, and at least sixty days in advance of the meet-
25 ing at which the rule will be considered and voted upon, the commission
26 shall file a notice of proposed rulemaking:

27 i. On the website of the commission; and
28 ii. On the website of each licensing board or the publication in which
29 each state would otherwise publish proposed rules.

30 b. The notice of proposed rulemaking shall include:

31 i. The proposed time, date and location of the meeting in which the
32 rule will be considered and voted upon;

33 ii. The text of the proposed rule or amendment, and the reason for the
34 proposed rule;

35 iii. A request for comments on the proposed rule from any interested
36 person; and

37 iv. The manner in which interested persons may submit notice to the
38 commission of their intention to attend the public hearing and any writ-
39 ten comments.

40 c. Prior to adoption of a proposed rule, the commission shall allow
41 persons to submit written data, facts, opinions and arguments, which
42 shall be made available to the public.

43 3. Public hearings on rules. a. The commission shall grant an opportu-
44 nity for a public hearing before it adopts a rule or amendment.

45 b. The commission shall publish the place, time and date of the sched-
46 uled public hearing.

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

51 ii. Nothing in this section shall be construed as requiring a separate
52 hearing on each rule. Rules may be grouped for the convenience of the
53 commission at hearings required by this section.

54 c. If no one appears at the public hearing, the commission may proceed
55 with promulgation of the proposed rule.

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

4 4. Voting on rules. The commission shall, by majority vote of all
5 administrators, take final action on the proposed rule and shall deter-
6 mine the effective date of the rule, if any, based on the rulemaking
7 record and the full text of the rule.

8 5. Emergency rules. Upon determination that an emergency exists, the
9 commission may consider and adopt an emergency rule without prior
10 notice, opportunity for comment or hearing, provided that the usual
11 rulemaking procedures provided in this compact and in this section shall
12 be retroactively applied to the rule as soon as reasonably possible, in
13 no event later than ninety days after the effective date of the rule.
14 For the purposes of this provision, an emergency rule is one that must
15 be adopted immediately in order to:

16 a. Meet an imminent threat to public health, safety or welfare;

17 b. Prevent a loss of the commission or party state funds; or

18 c. Meet a deadline for the promulgation of an administrative rule that
19 is required by federal law or rule.

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

32 § 8909. Oversight, dispute resolution and enforcement. 1. Oversight.

33 a. Each party state shall enforce this compact and take all actions
34 necessary and appropriate to effectuate this compact's purposes and
35 intent.

36 b. The commission shall be entitled to receive service of process in
37 any proceeding that may affect the powers, responsibilities or actions
38 of the commission, and shall have standing to intervene in such a
39 proceeding for all purposes. Failure to provide service of process in
40 such proceeding to the commission shall render a judgment or order void
41 as to the commission, this compact or promulgated rules.

42 2. Default, technical assistance and termination. a. If the commission
43 determines that a party state has defaulted in the performance of its
44 obligations or responsibilities under this compact or the promulgated
45 rules, the commission shall:

46 i. Provide written notice to the defaulting state and other party
47 states of the nature of the default, the proposed means of curing the
48 default or any other action to be taken by the commission; and

49 ii. Provide remedial training and specific technical assistance
50 regarding the default.

51 b. If a state in default fails to cure the default, the defaulting
52 state's membership in this compact may be terminated upon an affirmative
53 vote of a majority of the administrators, and all rights, privileges and
54 benefits conferred by this compact may be terminated on the effective
55 date of termination. A cure of the default does not relieve the offend-

1 ing state of obligations or liabilities incurred during the period of
2 default.

3 c. Termination of membership in this compact shall be imposed only
4 after all other means of securing compliance have been exhausted. Notice
5 of intent to suspend or terminate shall be given by the commission to
6 the governor of the defaulting state and to the executive officer of the
7 defaulting state's licensing board and each of the party states.

8 d. A state whose membership in this compact has been terminated is
9 responsible for all assessments, obligations and liabilities incurred
10 through the effective date of termination, including obligations that
11 extend beyond the effective date of termination.

12 e. The commission shall not bear any costs related to a state that is
13 found to be in default or whose membership in this compact has been
14 terminated unless agreed upon in writing between the commission and the
15 defaulting state.

16 f. The defaulting state may appeal the action of the commission by
17 petitioning the U.S. District Court for the District of Columbia or the
18 federal district in which the commission has its principal offices. The
19 prevailing party shall be awarded all costs of such litigation, includ-
20 ing reasonable attorneys' fees.

21 3. Dispute resolution. a. Upon request by a party state, the commis-
22 sion shall attempt to resolve disputes related to the compact that arise
23 among party states and between party and non-party states.

24 b. The commission shall promulgate a rule providing for both mediation
25 and binding dispute resolution for disputes, as appropriate.

26 c. In the event the commission cannot resolve disputes among party
27 states arising under this compact:

28 i. The party states may submit the issues in dispute to an arbitration
29 panel, which will be comprised of individuals appointed by the compact
30 administrator in each of the affected party states, and an individual
31 mutually agreed upon by the compact administrators of all the party
32 states involved in the dispute.

33 ii. The decision of a majority of the arbitrators shall be final and
34 binding.

35 4. Enforcement. a. The commission, in the reasonable exercise of its
36 discretion, shall enforce the provisions and rules of this compact.

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

45 c. The remedies herein shall not be the exclusive remedies of the
46 commission. The commission may pursue any other remedies available under
47 federal or state law.

48 § 8910. Effective date, withdrawal and amendment. 1. Effective date.

49 a. This compact shall become effective and binding on the earlier of
50 the date of legislative enactment of this compact into law by no less
51 than twenty-six states or the effective date of the chapter of the laws
52 that enacted this compact. Thereafter, the compact shall become effec-
53 tive and binding as to any other compacting state upon enactment of the
54 compact into law by that state. All party states to this compact, that
55 also were parties to the prior nurse licensure compact, superseded by
56 this compact, (herein referred to as "prior compact"), shall be deemed

1 to have withdrawn from said prior compact within six months after the
2 effective date of this compact.

3 b. Each party state to this compact shall continue to recognize a
4 nurse's multistate licensure privilege to practice in that party state
5 issued under the prior compact until such party state has withdrawn from
6 the prior compact.

7 2. Withdrawal. a. Any party state may withdraw from this compact by
8 enacting a statute repealing the same. A party state's withdrawal shall
9 not take effect until six months after enactment of the repealing stat-
10 ute.

11 b. A party state's withdrawal or termination shall not affect the
12 continuing requirement of the withdrawing or terminated state's licens-
13 ing board to report adverse actions and significant investigations
14 occurring prior to the effective date of such withdrawal or termination.

15 c. Nothing contained in this compact shall be construed to invalidate
16 or prevent any nurse licensure agreement or other cooperative arrange-
17 ment between a party state and a non-party state that is made in accord-
18 ance with the other provisions of this compact.

19 3. Amendment. a. This compact may be amended by the party states. No
20 amendment to this compact shall become effective and binding upon the
21 party states unless and until it is enacted into the laws of all party
22 states.

23 b. Representatives of non-party states to this compact shall be
24 invited to participate in the activities of the commission, on a nonvot-
25 ing basis, prior to the adoption of this compact by all states.

26 § 8911. Construction and severability. 1. Construction and severabil-
27 ity. This compact shall be liberally construed so as to effectuate the
28 purposes thereof. The provisions of this compact shall be severable, and
29 if any phrase, clause, sentence or provision of this compact is declared
30 to be contrary to the constitution of any party state or of the United
31 States, or if the applicability thereof to any government, agency,
32 person or circumstance is held to be invalid, the validity of the
33 remainder of this compact and the applicability thereof to any govern-
34 ment, agency, person or circumstance shall not be affected thereby. If
35 this compact shall be held to be contrary to the constitution of any
36 party state, this compact shall remain in full force and effect as to
37 the remaining party states and in full force and effect as to the party
38 state affected as to all severable matters.

39 § 3. This act shall take effect immediately. Effective immediately,
40 the addition, amendment and/or repeal of any rule or regulation neces-
41 sary for the implementation of this act on its effective date are
42 authorized to be made and completed on or before such effective date.