

STATE OF NEW YORK

6873

2023-2024 Regular Sessions

IN SENATE

May 12, 2023

Introduced by Sen. ORTT -- 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 adopting the interstate nurse licensure compact (Part A); and to amend the education law, in relation to adopting the advanced practice registered nurse 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 components of legislation relating
2 to enacting the interstate nurse licensure compact and the advanced
3 practice registered nurse compact. Each component is wholly contained
4 within a Part identified as Parts A through B. The effective date for
5 each particular provision contained within such Part is set forth in the
6 last section of such Part. Any provision in any section contained within
7 a Part, including the effective date of the Part, which makes reference
8 to a section "of this act", when used in connection with that particular
9 component, shall be deemed to mean and refer to the corresponding
10 section of the Part in which it is found. Section three of this act sets
11 forth the general effective date of this act.

12 PART A

13 Section 1. The education law is amended by adding a new section 6912
14 to read as follows:

15 § 6912. Interstate nurse licensure compact. The interstate nurse
16 licensure compact is hereby enacted into law and entered into with all
17 jurisdictions legally joining therein in the form substantially as
18 follows:

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

LBD11345-01-3

INTERSTATE NURSE LICENSURE COMPACTARTICLE I.Findings and declaration of purposea. The party states find that:

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

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

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

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

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

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

b. The general purposes of this compact are to:

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

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

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

4. Promote compliance with the laws governing the practice of nursing in each jurisdiction;

5. Invest all party states with the authority to hold a nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses;

6. Decrease redundancies in the consideration and issuance of nurse licenses; and

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

ARTICLE II.DefinitionsAs used in this compact:

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

b. "alternative program" means a non-disciplinary monitoring program approved by a licensing board.

c. "coordinated licensure information system" means an integrated process for collecting, storing and sharing information on nurse licensure and enforcement activities related to nurse licensure laws that is

1 administered by a nonprofit organization composed of and controlled by
2 licensing boards.

3 d. "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.

12 e. "encumbrance" means a revocation or suspension of, or any limita-
13 tion on, the full and unrestricted practice of nursing imposed by a
14 licensing board.

15 f. "home state" means the party state which is the nurse's primary
16 state of residence.

17 g. "licensing board" means a party state's regulatory body responsible
18 for issuing nurse licenses.

19 h. "multistate license" means a license to practice as a registered or
20 a licensed practical/vocational nurse (lpn/vn) issued by a home state
21 licensing board that authorizes the licensed nurse to practice in all
22 party states under a multistate licensure privilege.

23 i. "multistate licensure privilege" means a legal authorization asso-
24 ciated with a multistate license permitting the practice of nursing as
25 either a registered nurse (rn) or lpn/vn in a remote state.

26 j. "nurse" means rn or lpn/vn, as those terms are defined by each
27 party state's practice laws.

28 k. "party state" means any state that has adopted this compact.

29 l. "remote state" means a party state, other than the home state.

30 m. "single-state license" means a nurse license issued by a party
31 state that authorizes practice only within the issuing state and does
32 not include a multistate licensure privilege to practice in any other
33 party state.

34 n. "state" means a state, territory or possession of the United States
35 and the District of Columbia.

36 o. "state practice laws" means a party state's laws, rules and regu-
37 lations that govern the practice of nursing, define the scope of nursing
38 practice, and create the methods and grounds for imposing discipline.
39 "state practice laws" do not include requirements necessary to obtain
40 and retain a license, except for qualifications or requirements of the
41 home state.

42 ARTICLE III.

43 General provisions and jurisdiction

44 a. A multistate license to practice registered or licensed
45 practical/vocational nursing issued by a home state to a resident in
46 that state will be recognized by each party state as authorizing a nurse
47 to practice as a registered nurse (rn) or as a licensed
48 practical/vocational nurse (lpn/vn), under a multistate licensure privi-
49 lege, in each party state.

50 b. A state must implement procedures for considering the criminal
51 history records of applicants for initial multistate license or licen-
52 sure by endorsement. Such procedures shall include the submission of
53 fingerprints or other biometric-based information by applicants for the
54 purpose of obtaining an applicant's criminal history record information

1 from the federal bureau of investigation and the agency responsible for
2 retaining that state's criminal records.

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

5 1. Meets the home state's qualifications for licensure or renewal of
6 licensure, as well as, all other applicable state laws;

7 2. i. Has graduated or is eligible to graduate from a licensing board-
8 approved rn or lpn/vn prelicensure education program; or

9 ii. Has graduated from a foreign rn or lpn/vn prelicensure education
10 program that (a) has been approved by the authorized accrediting body in
11 the applicable country and (b) has been verified by an independent
12 credentials review agency to be comparable to a licensing board-approved
13 prelicensure education program;

14 3. Has, if a graduate of a foreign prelicensure education program not
15 taught in english or if english is not the individual's native language,
16 successfully passed an English proficiency examination that includes the
17 components of reading, speaking, writing and listening;

18 4. Has successfully passed an nclex-rn or nclex-pn examination or
19 recognized predecessor, as applicable;

20 5. Is eligible for or holds an active, unencumbered license;

21 6. Has submitted, in connection with an application for initial licen-
22 sure or licensure by endorsement, fingerprints or other biometric data
23 for the purpose of obtaining criminal history record information from
24 the federal bureau of investigation and the agency responsible for
25 retaining that state's criminal records;

26 7. Has not been convicted or found guilty, or has entered into an
27 agreed disposition, of a felony offense under applicable state or feder-
28 al criminal law;

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

32 9. Is not currently enrolled in an alternative program;

33 10. Is subject to self-disclosure requirements regarding current
34 participation in an alternative program; and

35 11. Has a valid united states social security number.

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

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

54 f. Individuals not residing in a party state shall continue to be able
55 to apply for a party state's single-state license as provided under the
56 laws of each party state. However, the single-state license granted to

1 these individuals will not be recognized as granting the privilege to
2 practice nursing in any other party state. Nothing in this compact shall
3 affect the requirements established by a party state for the issuance of
4 a single-state license.

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

8 1. A nurse, who changes primary state of residence after this
9 compact's effective date, must meet all applicable requirements of
10 subdivision c of this article to obtain a multistate license from a new
11 home state.

12 2. A nurse who fails to satisfy the multistate licensure requirements
13 in subdivision c of this article. Due to a disqualifying event occur-
14 ring after this compact's effective date shall be ineligible to retain
15 or renew a multistate license, and the nurse's multistate license shall
16 be revoked or deactivated in accordance with applicable rules adopted by
17 the interstate commission of nurse licensure compact administrators
18 ("commission").

19 ARTICLE IV.

20 Applications for licensure in a party state

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

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

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

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

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

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

46 ARTICLE V.

47 Additional authorities invested in party state licensing boards

48 a. In addition to the other powers conferred by state law, a licensing
49 board shall have the authority to:

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

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

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

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

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

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

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

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

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

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

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

51 ARTICLE VI.

52 Coordinated licensure information system and exchange of information

53 a. All party states shall participate in a coordinated licensure
54 information system of all licensed registered nurses (rns) and licensed

1 practical/vocational nurses (lpns/vns). This system will include infor-
2 mation on the licensure and disciplinary history of each nurse, as
3 submitted by party states, to assist in the coordination of nurse licen-
4 sure and enforcement efforts.

5 b. The commission, in consultation with the administrator of the coor-
6 ordinated licensure information system, shall formulate necessary and
7 proper procedures for the identification, collection and exchange of
8 information under this compact.

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

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

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

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

29 g. Any information contributed to the coordinated licensure informa-
30 tion system that is subsequently required to be expunged by the laws of
31 the party state contributing that information shall also be expunged
32 from the coordinated licensure information system.

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

36 1. Identifying information;

37 2. Licensure data;

38 3. Information related to alternative program participation; and

39 4. Other information that may facilitate the administration of this
40 compact, as determined by commission rules.

41 i. The compact administrator of a party state shall provide all inves-
42 tigative documents and information requested by another party state.

43 ARTICLE VII.

44 Establishment of the interstate commission of nurse licensure compact 45 administrators

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

49 1. The commission is an instrumentality of the party states.

50 2. Venue is proper, and judicial proceedings by or against the commis-
51 sion shall be brought solely and exclusively, in a court of competent
52 jurisdiction where the principal office of the commission is located.
53 The commission may waive venue and jurisdictional defenses to the extent

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

3 3. Nothing in this compact shall be construed to be a waiver of sover-
4 eign immunity.

5 b. Membership, voting and meetings.

6 1. 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 2. Each administrator shall be entitled to one (1) 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 3. 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 4. 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 article VIII of this compact.

25 5. The commission may convene in a closed, nonpublic meeting if the
26 commission must discuss:

27 i. Noncompliance of a party state with its obligations under this
28 compact;

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

33 iii. Current, threatened or reasonably anticipated litigation;

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

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

37 vi. Disclosure of trade secrets or commercial or financial information
38 that is privileged or confidential;

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

41 viii. Disclosure of investigatory records compiled for law enforcement
42 purposes;

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

46 x. Matters specifically exempted from disclosure by federal or state
47 statute.

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

1 subject to release by a majority vote of the commission or order of a
2 court of competent jurisdiction.

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

7 1. Establishing the fiscal year of the commission;

8 2. Providing reasonable standards and procedures:

9 i. For the establishment and meetings of other committees; and

10 ii. Governing any general or specific delegation of any authority or
11 function of the commission;

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

22 4. Establishing the titles, duties and authority and reasonable proce-
23 dures for the election of the officers of the commission;

24 5. Providing reasonable standards and procedures for the establishment
25 of the personnel policies and programs of the commission. Notwithstand-
26 ing any civil service or other similar laws of any party state, the
27 bylaws shall exclusively govern the personnel policies and programs of
28 the commission; and

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

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

35 e. The commission shall maintain its financial records in accordance
36 with the bylaws.

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

39 g. The commission shall have the following powers:

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

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

46 3. To purchase and maintain insurance and bonds;

47 4. To borrow, accept or contract for services of personnel, including,
48 but not limited to, employees of a party state or nonprofit organiza-
49 tions;

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

54 6. To hire employees, elect or appoint officers, fix compensation,
55 define duties, grant such individuals appropriate authority to carry out
56 the purposes of this compact, and to establish the commission's person-

1 nel policies and programs relating to conflicts of interest, qualifica-
2 tions of personnel and other related personnel matters;

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

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

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

13 10. To establish a budget and make expenditures;

14 11. To borrow money;

15 12. To appoint committees, including advisory committees comprised of
16 administrators, state nursing regulators, state legislators or their
17 representatives, and consumer representatives, and other such interested
18 persons;

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

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

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

25 h. Financing of the commission.

26 1. The commission shall pay, or provide for the payment of, the
27 reasonable expenses of its establishment, organization and ongoing
28 activities.

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

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

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

46 i. Qualified immunity, defense and indemnification.

47 1. The administrators, officers, executive director, employees and
48 representatives of the commission shall be immune from suit and liabil-
49 ity, either personally or in their official capacity, for any claim for
50 damage to or loss of property or personal injury or other civil liabil-
51 ity caused by or arising out of any actual or alleged act, error or
52 omission that occurred, or that the person against whom the claim is
53 made had a reasonable basis for believing occurred, within the scope of
54 commission employment, duties or responsibilities; provided that nothing
55 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 2. 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 3. The commission shall indemnify and hold harmless any administrator,
15 officer, executive director, employee or representative of the commis-
16 sion for the amount of any settlement or judgment obtained against that
17 person arising out of any actual or alleged act, error or omission that
18 occurred within the scope of commission employment, duties or responsi-
19 bilities, or that such person had a reasonable basis for believing
20 occurred within the scope of commission employment, duties or responsi-
21 bilities, provided that the actual or alleged act, error or omission did
22 not result from the intentional, willful or wanton misconduct of that
23 person.

24 ARTICLE VIII.

25 Rulemaking

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

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

33 c. Prior to promulgation and adoption of a final rule or rules by the
34 commission, and at least sixty (60) days in advance of the meeting at
35 which the rule will be considered and voted upon, the commission shall
36 file a notice of proposed rulemaking:

37 1. On the website of the commission; and

38 2. On the website of each licensing board or the publication in which
39 each state would otherwise publish proposed rules.

40 d. The notice of proposed rulemaking shall include:

41 1. The proposed time, date and location of the meeting in which the
42 rule will be considered and voted upon;

43 2. The text of the proposed rule or amendment, and the reason for the
44 proposed rule;

45 3. A request for comments on the proposed rule from any interested
46 person; and

47 4. The manner in which interested persons may submit notice to the
48 commission of their intention to attend the public hearing and any writ-
49 ten comments.

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

53 f. The commission shall grant an opportunity for a public hearing
54 before it adopts a rule or amendment.

1 g. The commission shall publish the place, time and date of the sched-
2 uled public hearing.

3 1. Hearings shall be conducted in a manner providing each person who
4 wishes to comment a fair and reasonable opportunity to comment orally or
5 in writing. All hearings will be recorded, and a copy will be made
6 available upon request.

7 2. Nothing in this section shall be construed as requiring a separate
8 hearing on each rule. Rules may be grouped for the convenience of the
9 commission at hearings required by this section.

10 h. If no one appears at the public hearing, the commission may proceed
11 with promulgation of the proposed rule.

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

15 j. The commission shall, by majority vote of all administrators, take
16 final action on the proposed rule and shall determine the effective date
17 of the rule, if any, based on the rulemaking record and the full text of
18 the rule.

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

27 1. Meet an imminent threat to public health, safety or welfare;

28 2. Prevent a loss of commission or party state funds; or

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

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

43 ARTICLE IX.

44 Oversight, dispute resolution and enforcement

45 a. Oversight.

46 1. Each party state shall enforce this compact and take all actions
47 necessary and appropriate to effectuate this compact's purposes and
48 intent.

49 2. The commission shall be entitled to receive service of process in
50 any proceeding that may affect the powers, responsibilities or actions
51 of the commission, and shall have standing to intervene in such a
52 proceeding for all purposes. Failure to provide service of process in
53 such proceeding to the commission shall render a judgment or order void
54 as to the commission, this compact or promulgated rules.

b. Default, technical assistance and termination.

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

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

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

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

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

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

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

6. The defaulting state may appeal the action of the commission by petitioning the u.s. district court for the district of columbia or the federal district in which the commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.

c. Dispute resolution.

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

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

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

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

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

d. Enforcement.

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

2. By majority vote, the commission may initiate legal action in the u.s. district court for the district of columbia or the federal district in which the commission has its principal offices against a party state that is in default to enforce compliance with the provisions of this

1 compact and its promulgated rules and bylaws. The relief sought may
2 include both injunctive relief and damages. In the event judicial
3 enforcement is necessary, the prevailing party shall be awarded all
4 costs of such litigation, including reasonable attorneys' fees.

5 3. The remedies herein shall not be the exclusive remedies of the
6 commission. The commission may pursue any other remedies available under
7 federal or state law.

8 ARTICLE X.

9 Effective date, withdrawal and amendment

10 a. This compact shall become effective and binding on the earlier of
11 the date of legislative enactment of this compact into law by no less
12 than twenty-six (26) states or December 31, 2018. All party states to
13 this compact, that also were parties to the prior nurse licensure
14 compact, superseded by this compact, ("prior compact"), shall be deemed
15 to have withdrawn from said prior compact within six (6) months after
16 the effective date of this compact.

17 b. Each party state to this compact shall continue to recognize a
18 nurse's multistate licensure privilege to practice in that party state
19 issued under the prior compact until such party state has withdrawn from
20 the prior compact.

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

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

28 e. Nothing contained in this compact shall be construed to invalidate
29 or prevent any nurse licensure agreement or other cooperative arrange-
30 ment between a party state and a non-party state that is made in accord-
31 ance with the other provisions of this compact.

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

35 g. Representatives of non-party states to this compact shall be
36 invited to participate in the activities of the commission, on a nonvot-
37 ing basis, prior to the adoption of this compact by all states.

38 ARTICLE XI.

39 Construction and severability

40 This compact shall be liberally construed so as to effectuate the
41 purposes thereof. The provisions of this compact shall be severable, and
42 if any phrase, clause, sentence or provision of this compact is declared
43 to be contrary to the constitution of any party state or of the united
44 states, or if the applicability thereof to any government, agency,
45 person or circumstance is held invalid, the validity of the remainder of
46 this compact and the applicability thereof to any government, agency,
47 person or circumstance shall not be affected thereby. If this compact
48 shall be held to be contrary to the constitution of any party state,
49 this compact shall remain in full force and effect as to the remaining
50 party states and in full force and effect as to the party state affected
51 as to all severable matters.

§ 2. This act shall take effect on the ninetieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.

PART B

Section 1. The education law is amended by adding a new section 6913 to read as follows:

§ 6913. Advanced Practice Registered Nurse Compact. The advanced practice registered nurse compact is hereby enacted into law and entered into with all jurisdictions legally joining therein in the form substantially as follows:

ARTICLE I.

Findings and Declaration of Purpose

a. The party states find that:

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

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

3. The expanded mobility of APRNs and the use of advanced communication and intervention technologies as part of our nation's health care delivery system require greater coordination and cooperation among states in the areas of APRN licensure and regulation;

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

5. The current system of duplicative APRN licensure for APRNs practicing in multiple states is cumbersome and redundant for healthcare delivery systems, payors, state licensing boards, regulators and APRNs;

6. Uniformity of APRN licensure requirements throughout the states promotes public safety and public health benefits as well as providing a mechanism to increase access to care.

b. The general purposes of this Compact are to:

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

2. Ensure and encourage the cooperation of party states in the areas of APRN licensure and regulation, including promotion of uniform licensure requirements;

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

4. Promote compliance with the laws governing APRN practice in each jurisdiction;

5. Invest all party states with the authority to hold an APRN accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state privileges to practice;

6. Decrease redundancies in the consideration and issuance of APRN licenses; and

7. Provide opportunities for interstate practice by APRNs who meet uniform licensure requirements.

ARTICLE II.
Definitions

As used in this Compact:

a. "Advanced practice registered nurse" or "APRN" means a registered nurse who has gained additional specialized knowledge, skills and experience through a program of study recognized or defined by the Interstate Commission of APRN Compact Administrators ("commission"), and who is licensed to perform advanced nursing practice. An advanced practice registered nurse is licensed in an APRN role that is congruent with an APRN educational program, certification, and Commission rules.

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

c. "Alternative program" means a non-disciplinary monitoring program approved by a licensing board.

d. "APRN licensure" means the regulatory mechanism used by a party state to grant legal authority to practice as an APRN.

e. "APRN uniform licensure requirements" means the minimum uniform licensure, education and examination requirements set forth in subdivision b of article III of this compact.

f. "Coordinated licensure information system" means an integrated process for collecting, storing and sharing information on APRN licensure and enforcement activities related to APRN licensure laws that is administered by a nonprofit organization composed of and controlled by licensing boards.

g. "Current significant investigatory information" means:

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

2. Investigative information that indicates that the APRN represents an immediate threat to public health and safety regardless of whether the APRN has been notified and had an opportunity to respond.

h. "Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted practice of nursing imposed by a licensing board in connection with a disciplinary proceeding.

i. "Home state" means the party state that is the APRN's primary state of residence.

j. "Licensing board" means a party state's regulatory body responsible for regulating the practice of advanced practice registered nursing.

k. "Multistate license" means an APRN license to practice as an APRN issued by a home state licensing board that authorizes the APRN to practice as an APRN in all party states under a multistate licensure privilege, in the same role and population focus as the APRN is licensed in the home state.

l. "Multistate licensure privilege" means a legal authorization associated with an APRN multistate license that permits an APRN to practice as an APRN in a remote state, in the same role and population focus as the APRN is licensed in the home state.

1 m. "Non-controlled prescription drug" means a device or drug that is
2 not a controlled substance and is prohibited under state or federal law
3 from being dispensed without a prescription. The term includes a device
4 or drug that bears or is required to bear the legend "Caution: federal
5 law prohibits dispensing without prescription" or "prescription only" or
6 other legend that complies with federal law.

7 n. "Party state" means any state that has adopted this Compact.

8 o. "Population focus" means one of the six population foci of
9 family/individual across the lifespan, adult-gerontology, pediatrics,
10 neonatal, women's health/gender-related and psych/mental health.

11 p. "Prescriptive authority" means the legal authority to prescribe
12 medications and devices as defined by party state laws.

13 q. "Remote state" means a party state that is not the home state.

14 r. "Role" means one of the four recognized roles of certified regis-
15 tered nurse anesthetists (CRNA), certified nurse-midwives (CNM), clin-
16 ical nurse specialists (CNS) and certified nurse practitioners (CNP).

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

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

23 u. "State practice laws" means a party state's laws, rules, and regu-
24 lations that govern APRN practice, define the scope of advanced nursing
25 practice and create the methods and grounds for imposing discipline
26 except that prescriptive authority shall be treated in accordance with
27 subdivisions f and g of Article III of this Compact. "State practice
28 laws" does not include:

29 1. A party state's laws, rules, and regulations requiring supervision
30 or collaboration with a healthcare professional, except for laws, rules,
31 and regulations regarding prescribing controlled substances; and

32 2. The requirements necessary to obtain and retain an APRN license,
33 except for qualifications or requirements of the home state.

34 ARTICLE III.

35 General Provisions and Jurisdiction

36 a. A state must implement procedures for considering the criminal
37 history records of applicants for initial APRN licensure or APRN licen-
38 sure by endorsement. Such procedures shall include the submission of
39 fingerprints or other biometric-based information by APRN applicants for
40 the purpose of obtaining an applicant's criminal history record informa-
41 tion from the Federal Bureau of Investigation and the agency responsible
42 for retaining that state's criminal records.

43 b. Each party state shall require an applicant to satisfy the follow-
44 ing APRN uniform licensure requirements to obtain or retain a multistate
45 license in the home state:

46 1. Meets the home state's qualifications for licensure or renewal of
47 licensure, as well as, all other applicable state laws;

48 2. i. Has completed an accredited graduate-level education program
49 that prepares the applicant for one of the four recognized roles and
50 population foci; or

51 ii. Has completed a foreign APRN education program for one of the four
52 recognized roles and population foci that (a) has been approved by the
53 authorized accrediting body in the applicable country and (b) has been

1 verified by an independent credentials review agency to be comparable to
2 a licensing board-approved APRN education program;

3 3. Has, if a graduate of a foreign APRN education program not taught
4 in English or if English is not the individual's native language,
5 successfully passed an English proficiency examination that includes the
6 components of reading, speaking, writing and listening;

7 4. Has successfully passed a national certification examination that
8 measures APRN, role and population-focused competencies and maintains
9 continued competence as evidenced by recertification in the role and
10 population focus through the national certification program;

11 5. Holds an active, unencumbered license as a registered nurse and an
12 active, unencumbered authorization to practice as an APRN;

13 6. Has successfully passed an NCLEX-RN examination or recognized pred-
14 ecessor, as applicable;

15 7. Has practiced for at least 2,080 hours as an APRN in a role and
16 population focus congruent with the applicant's education and training.
17 For purposes of this section, practice shall not include hours obtained
18 as part of enrollment in an APRN education program;

19 8. Has submitted, in connection with an application for initial licen-
20 sure or licensure by endorsement, fingerprints or other biometric data
21 for the purpose of obtaining criminal history record information from
22 the Federal Bureau of Investigation and the agency responsible for
23 retaining that state or, if applicable, foreign country's criminal
24 records;

25 9. Has not been convicted or found guilty, or has entered into an
26 agreed disposition, of a felony offense under applicable state, federal
27 or foreign criminal law;

28 10. Has not been convicted or found guilty, or has entered into an
29 agreed disposition, of a misdemeanor offense related to the practice of
30 nursing as determined by factors set forth in rules adopted by the
31 Commission;

32 11. Is not currently enrolled in an alternative program;

33 12. Is subject to self-disclosure requirements regarding current
34 participation in an alternative program; and

35 13. Has a valid United States Social Security number.

36 c. An APRN issued a multistate license shall be licensed in an
37 approved role and at least one approved population focus.

38 d. An APRN multistate license issued by a home state to a resident in
39 that state will be recognized by each party state as authorizing the
40 APRN to practice as an APRN in each party state, under a multistate
41 licensure privilege, in the same role and population focus as the APRN
42 is licensed in the home state.

43 e. Nothing in this Compact shall affect the requirements established
44 by a party state for the issuance of a single-state license, except that
45 an individual may apply for a single-state license, instead of a multi-
46 state license, even if otherwise qualified for the multistate license.
47 However, the failure of such an individual to affirmatively opt for a
48 single state license may result in the issuance of a multistate license.

49 f. Issuance of an APRN multistate license shall include prescriptive
50 authority for noncontrolled prescription drugs.

51 g. For each state in which an APRN seeks authority to prescribe
52 controlled substances, the APRN shall satisfy all requirements imposed
53 by such state in granting and/or renewing such authority.

54 h. An APRN issued a multistate license is authorized to assume respon-
55 sibility and accountability for patient care independent of any supervi-
56 sory or collaborative relationship. This authority may be exercised in

1 the home state and in any remote state in which the APRN exercises a
2 multistate licensure privilege.

3 i. All party states shall be authorized, in accordance with state due
4 process laws, to take adverse action against an APRN's multistate licen-
5 sure privilege such as revocation, suspension, probation or any other
6 action that affects an APRN's authorization to practice under a multi-
7 state licensure privilege, including cease and desist actions. If a
8 party state takes such action, it shall promptly notify the administra-
9 tor of the coordinated licensure information system. The administrator
10 of the coordinated licensure information system shall promptly notify
11 the home state of any such actions by remote states.

12 j. Except as otherwise expressly provided in this Compact, an APRN
13 practicing in a party state must comply with the state practice laws of
14 the state in which the client is located at the time service is
15 provided. APRN practice is not limited to patient care, but shall
16 include all advanced nursing practice as defined by the state practice
17 laws of the party state in which the client is located. APRN practice in
18 a party state under a multistate licensure privilege will subject the
19 APRN to the jurisdiction of the licensing board, the courts, and the
20 laws of the party state in which the client is located at the time
21 service is provided.

22 k. Except as otherwise expressly provided in this Compact, this
23 Compact does not affect additional requirements imposed by states for
24 advanced practice registered nursing. However, a multistate licensure
25 privilege to practice registered nursing granted by a party state shall
26 be recognized by other party states as satisfying any state law require-
27 ment for registered nurse licensure as a precondition for authorization
28 to practice as an APRN in that state.

29 l. Individuals not residing in a party state shall continue to be able
30 to apply for a party state's single-state APRN license as provided under
31 the laws of each party state. However, the single-state license granted
32 to these individuals will not be recognized as granting the privilege to
33 practice as an APRN in any other party state.

34 ARTICLE IV.

35 Applications for APRN Licensure in a Party State

36 a. Upon application for an APRN multistate license, the licensing
37 board in the issuing party state shall ascertain, through the coordi-
38 nated licensure information system, whether the applicant has ever held
39 or is the holder of a licensed practical/vocational nursing license, a
40 registered nursing license or an advanced practice registered nurse
41 license issued by any other state, whether there are any encumbrances on
42 any license or multistate licensure privilege held by the applicant,
43 whether any adverse action has been taken against any license or multi-
44 state licensure privilege held by the applicant and whether the appli-
45 cant is currently participating in an alternative program.

46 b. An APRN may hold a multistate APRN license, issued by the home
47 state, in only one party state at a time.

48 c. If an APRN changes primary state of residence by moving between two
49 party states, the APRN must apply for APRN licensure in the new home
50 state, and the multistate license issued by the prior home state shall
51 be deactivated in accordance with applicable Commission rules.

52 1. The APRN may apply for licensure in advance of a change in primary
53 state of residence.

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

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

ARTICLE V.

Additional Authorities Invested in Party State Licensing Boards

a. In addition to the other powers conferred by state law, a licensing board shall have the authority to:

1. Take adverse action against an APRN's multistate licensure privilege to practice within that party state.

i. Only the home state shall have power to take adverse action against an APRN's license issued by the home state.

ii. For purposes of taking adverse action, the home state licensing board shall give the same priority and effect to reported conduct that occurred outside of the home state as it would if such conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.

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

3. Complete any pending investigations of an APRN who changes primary state of residence during the course of such investigations. The licensing board shall also have the authority to take appropriate action(s) and shall promptly report the conclusions of such investigations to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any such actions.

4. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses, as well as, the production of evidence. Subpoenas issued by a party state licensing board for the attendance and testimony of witnesses and/or the production of evidence from another party state shall be enforced in the latter state by any court of competent jurisdiction, according to that court's practice and procedure in considering subpoenas issued in its own proceedings. The issuing licensing board shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state in which the witnesses and/or evidence are located.

5. Obtain and submit, for an APRN licensure applicant, fingerprints or other biometric-based information to the Federal Bureau of Investigation for criminal background checks, receive the results of the Federal Bureau of Investigation record search on criminal background checks and use the results in making licensure decisions.

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

7. Take adverse action based on the factual findings of another party state, provided that the licensing board follows its own procedures for taking such adverse action.

b. If adverse action is taken by a home state against an APRN's multistate licensure, the privilege to practice in all other party states

1 under a multistate licensure privilege shall be deactivated until all
2 encumbrances have been removed from the APRN's multistate license. All
3 home state disciplinary orders that impose adverse action against an
4 APRN's multistate license shall include a statement that the APRN's
5 multistate licensure privilege is deactivated in all party states during
6 the pendency of the order.

7 c. Nothing in this Compact shall override a party state's decision
8 that participation in an alternative program may be used in lieu of
9 adverse action. The home state licensing board shall deactivate the
10 multistate licensure privilege under the multistate license of any APRN
11 for the duration of the APRN's participation in an alternative program.

12 ARTICLE VI.

13 Coordinated Licensure Information System and Exchange of Information

14 a. All party states shall participate in a coordinated licensure
15 information system of all APRNs, licensed registered nurses and licensed
16 practical/vocational nurses. This system will include information on the
17 licensure and disciplinary history of each APRN, as submitted by party
18 states, to assist in the coordinated administration of APRN licensure
19 and enforcement efforts.

20 b. The Commission, in consultation with the administrator of the coor-
21 ordinated licensure information system, shall formulate necessary and
22 proper procedures for the identification, collection and exchange of
23 information under this Compact.

24 c. All licensing boards shall promptly report to the coordinated
25 licensure information system any adverse action, any current significant
26 investigative information, denials of applications (with the reasons for
27 such denials) and APRN participation in alternative programs known to
28 the licensing board regardless of whether such participation is deemed
29 nonpublic and/or confidential under state law.

30 d. Notwithstanding any other provision of law, all party state licens-
31 ing boards contributing information to the coordinated licensure infor-
32 mation system may designate information that may not be shared with
33 non-party states or disclosed to other entities or individuals without
34 the express permission of the contributing state.

35 e. Any personally identifiable information obtained from the coordi-
36 nated licensure information system by a party state licensing board
37 shall not be shared with non-party states or disclosed to other entities
38 or individuals except to the extent permitted by the laws of the party
39 state contributing the information.

40 f. Any information contributed to the coordinated licensure informa-
41 tion system that is subsequently required to be expunged by the laws of
42 the party state contributing the information shall be removed from the
43 coordinated licensure information system.

44 g. The Compact administrator of each party state shall furnish a
45 uniform data set to the Compact administrator of each other party state,
46 which shall include, at a minimum:

47 1. Identifying information;

48 2. Licensure data;

49 3. Information related to alternative program participation informa-
50 tion; and

51 4. Other information that may facilitate the administration of this
52 Compact, as determined by Commission rules.

53 h. The Compact administrator of a party state shall provide all inves-
54 tigative documents and information requested by another party state.

ARTICLE VII.
Establishment of the Interstate Commission of APRN Compact
Administrators

a. The party states hereby create and establish a joint public agency known as the Interstate Commission of APRN Compact Administrators.

1. The Commission is an instrumentality of the party states.

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

3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

b. Membership, Voting and Meetings.

1. Each party state shall have and be limited to one administrator. The head of the state licensing board or designee shall be the administrator of this Compact for each party state. Any administrator may be removed or suspended from office as provided by the law of the state from which the administrator is appointed. Any vacancy occurring in the Commission shall be filled in accordance with the laws of the party state in which the vacancy exists.

2. Each administrator shall be entitled to one (1) vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission. An administrator shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for an administrator's participation in meetings by telephone or other means of communication.

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

4. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rule-making provisions in Article VIII.

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

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

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

iii. Current, threatened, or reasonably anticipated litigation;

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

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

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

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

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

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

1 x. Matters specifically exempted from disclosure by federal or state
2 statute.

3 6. If a meeting, or portion of a meeting, is closed pursuant to this
4 provision, the Commission's legal counsel or designee shall certify that
5 the meeting may be closed and shall reference each relevant exempting
6 provision. The Commission shall keep minutes that fully and clearly
7 describe all matters discussed in a meeting and shall provide a full and
8 accurate summary of actions taken, and the reasons therefor, including a
9 description of the views expressed. All documents considered in
10 connection with an action shall be identified in such minutes. All
11 minutes and documents of a closed meeting shall remain under seal,
12 subject to release by a majority vote of the Commission or order of a
13 court of competent jurisdiction.

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

18 1. Establishing the fiscal year of the Commission;

19 2. Providing reasonable standards and procedures:

20 i. For the establishment and meetings of other committees; and

21 ii. Governing any general or specific delegation of any authority or
22 function of the Commission;

23 3. Providing reasonable procedures for calling and conducting meetings
24 of the Commission, ensuring reasonable advance notice of all meetings
25 and providing an opportunity for attendance of such meetings by inter-
26 ested parties, with enumerated exceptions designed to protect the
27 public's interest, the privacy of individuals, and proprietary informa-
28 tion, including trade secrets. The Commission may meet in closed session
29 only after a majority of the administrators vote to close a meeting in
30 whole or in part. As soon as practicable, the Commission must make
31 public a copy of the vote to close the meeting revealing the vote of
32 each administrator, with no proxy votes allowed;

33 4. Establishing the titles, duties and authority and reasonable proce-
34 dures for the election of the officers of the Commission;

35 5. Providing reasonable standards and procedures for the establishment
36 of the personnel policies and programs of the Commission. Notwithstand-
37 ing any civil service or other similar laws of any party state, the
38 bylaws shall exclusively govern the personnel policies and programs of
39 the Commission;

40 6. Providing a mechanism for winding up the operations of the Commis-
41 sion and the equitable disposition of any surplus funds that may exist
42 after the termination of this Compact after the payment and/or reserving
43 of all of its debts and obligations;

44 d. The Commission shall publish its bylaws and rules, and any amend-
45 ments thereto, in a convenient form on the website of the Commission;

46 e. The Commission shall maintain its financial records in accordance
47 with the bylaws; and

48 f. The Commission shall meet and take such actions as are consistent
49 with the provisions of this Compact and the bylaws.

50 g. The Commission shall have the following powers:

51 1. To promulgate uniform rules to facilitate and coordinate implemen-
52 tation and administration of this Compact. The rules shall have the
53 force and effect of law and shall be binding in all party states;

54 2. To bring and prosecute legal proceedings or actions in the name of
55 the Commission, provided that the standing of any licensing board to sue
56 or be sued under applicable law shall not be affected;

1 3. To purchase and maintain insurance and bonds;

2 4. To borrow, accept or contract for services of personnel, including
3 but not limited to employees of a party state or nonprofit organiza-
4 tions;

5 5. To cooperate with other organizations that administer state
6 compacts related to the regulation of nursing, including but not limited
7 to sharing administrative or staff expenses, office space or other
8 resources;

9 6. To hire employees, elect or appoint officers, fix compensation,
10 define duties, grant such individuals appropriate authority to carry out
11 the purposes of this Compact, and to establish the Commission's person-
12 nel policies and programs relating to conflicts of interest, qualifica-
13 tions of personnel and other related personnel matters;

14 7. To accept any and all appropriate donations, grants and gifts of
15 money, equipment, supplies, materials and services, and to receive,
16 utilize and dispose of the same; provided that at all times the Commis-
17 sion shall strive to avoid any appearance of impropriety and/or conflict
18 of interest;

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

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

25 10. To establish a budget and make expenditures;

26 11. To borrow money;

27 12. To appoint committees, including advisory committees comprised of
28 administrators, state nursing regulators, state legislators or their
29 representatives, and consumer representatives, and other such interested
30 persons;

31 13. To issue advisory opinions;

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

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

35 16. To perform such other functions as may be necessary or appropriate
36 to achieve the purposes of this Compact consistent with the state regu-
37 lation of APRN licensure and practice.

38 h. Financing of the Commission.

39 1. The Commission shall pay, or provide for the payment of, the
40 reasonable expenses of its establishment, organization and ongoing
41 activities.

42 2. The Commission may also levy on and collect an annual assessment
43 from each party state to cover the cost of its operations, activities
44 and staff in its annual budget as approved each year. The aggregate
45 annual assessment amount, if any, shall be allocated based upon a formu-
46 la to be determined by the Commission, which shall promulgate a rule
47 that is binding upon all party states.

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

52 4. The Commission shall keep accurate accounts of all receipts and
53 disbursements. The receipts and disbursements of the Commission shall
54 be subject to the audit and accounting procedures established under its
55 bylaws. However, all receipts and disbursements of funds handled by the
56 Commission shall be audited yearly by a certified or licensed public

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

3 i. Qualified Immunity, Defense, and Indemnification.

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

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

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

36 ARTICLE VIII.

37 Rulemaking

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

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

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

49 1. On the website of the Commission; and

50 2. On the website of each licensing board or the publication in which
51 each state would otherwise publish proposed rules.

52 d. The notice of proposed rulemaking shall include:

53 1. The proposed time, date and location of the meeting in which the
54 rule will be considered and voted upon;

1 2. The text of the proposed rule or amendment, and the reason for the
2 proposed rule;

3 3. A request for comments on the proposed rule from any interested
4 person; and

5 4. The manner in which interested persons may submit notice to the
6 Commission of their intention to attend the public hearing and any writ-
7 ten comments.

8 e. Prior to adoption of a proposed rule, the Commission shall allow
9 persons to submit written data, facts, opinions and arguments, which
10 shall be made available to the public.

11 f. The Commission shall grant an opportunity for a public hearing
12 before it adopts a rule or amendment.

13 g. The Commission shall publish the place, time, and date of the sche-
14 duled public hearing.

15 1. Hearings shall be conducted in a manner providing each person who
16 wishes to comment a fair and reasonable opportunity to comment orally or
17 in writing. All hearings will be recorded, and a copy will be made
18 available upon request.

19 2. Nothing in this section shall be construed as requiring a separate
20 hearing on each rule. Rules may be grouped for the convenience of the
21 Commission at hearings required by this section.

22 h. If no one appears at the public hearing, the Commission may proceed
23 with promulgation of the proposed rule.

24 i. Following the scheduled hearing date, or by the close of business
25 on the scheduled hearing date if the hearing was not held, the Commis-
26 sion shall consider all written and oral comments received.

27 j. The Commission shall, by majority vote of all administrators, take
28 final action on the proposed rule and shall determine the effective date
29 of the rule, if any, based on the rulemaking record and the full text of
30 the rule.

31 k. Upon determination that an emergency exists, the Commission may
32 consider and adopt an emergency rule without prior notice, opportunity
33 for comment, or hearing, provided that the usual rulemaking procedures
34 provided in this Compact and in this section shall be retroactively
35 applied to the rule as soon as reasonably possible, in no event later
36 than ninety (90) days after the effective date of the rule. For the
37 purposes of this provision, an emergency rule is one that must be
38 adopted immediately in order to:

39 1. Meet an imminent threat to public health, safety or welfare;

40 2. Prevent a loss of Commission or party state funds; or

41 3. Meet a deadline for the promulgation of an administrative rule that
42 is established by federal law or rule.

43 1. The Commission may direct revisions to a previously adopted rule or
44 amendment for purposes of correcting typographical errors, errors in
45 format, errors in consistency or grammatical errors. Public notice of
46 any revisions shall be posted on the website of the Commission. The
47 revision shall be subject to challenge by any person for a period of
48 thirty (30) days after posting. The revision may be challenged only on
49 grounds that the revision results in a material change to a rule. A
50 challenge shall be made in writing, and delivered to the Commission,
51 prior to the end of the notice period. If no challenge is made, the
52 revision will take effect without further action. If the revision is
53 challenged, the revision may not take effect without the approval of the
54 Commission.

ARTICLE IX.Oversight, Dispute Resolution and Enforcementa. Oversight.

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

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

b. Default, Technical Assistance and Termination.

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

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

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

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

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

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

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

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

c. Dispute Resolution.

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

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

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

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

6 ii. The decision of a majority of the arbitrators shall be final and
7 binding.

8 d. Enforcement.

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

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

19 3. The remedies herein shall not be the exclusive remedies of the
20 Commission. The Commission may pursue any other remedies available under
21 federal or state law.

22 ARTICLE X.

23 Effective Date, Withdrawal and Amendment

24 a. This Compact shall come into limited effect at such time as this
25 Compact has been enacted into law in seven (7) party states for the sole
26 purpose of establishing and convening the Commission to adopt rules
27 relating to its operation.

28 b. Any state that joins this Compact subsequent to the Commission's
29 initial adoption of the APRN uniform licensure requirements shall be
30 subject to all rules that have been previously adopted by the Commis-
31 sion.

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

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

39 e. Nothing contained in this Compact shall be construed to invalidate
40 or prevent any APRN licensure agreement or other cooperative arrangement
41 between a party state and a non-party state that does not conflict with
42 the provisions of this Compact.

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

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

49 ARTICLE XI.

50 Construction and Severability

51 This Compact shall be liberally construed so as to effectuate the
52 purposes thereof. The provisions of this Compact shall be severable, and

1 if any phrase, clause, sentence or provision of this Compact is declared
2 to be contrary to the constitution of any party state or of the United
3 States, or if the applicability thereof to any government, agency,
4 person or circumstance is held invalid, the validity of the remainder of
5 this Compact and the applicability thereof to any government, agency,
6 person or circumstance shall not be affected thereby. If this Compact
7 shall be held to be contrary to the constitution of any party state,
8 this Compact shall remain in full force and effect as to the remaining
9 party states and in full force and effect as to the party state affected
10 as to all severable matters.

11 § 2. This act shall take effect on the ninetieth day after it shall
12 have become a law. Effective immediately, the addition, amendment
13 and/or repeal of any rule or regulation necessary for the implementation
14 of this act on its effective date are authorized to be made and
15 completed on or before such effective date.

16 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
17 sion, section or part of this act shall be adjudged by any court of
18 competent jurisdiction to be invalid, such judgment shall not affect,
19 impair, or invalidate the remainder thereof, but shall be confined in
20 its operation to the clause, sentence, paragraph, subdivision, section
21 or part thereof directly involved in the controversy in which such judg-
22 ment shall have been rendered. It is hereby declared to be the intent of
23 the legislature that this act would have been enacted even if such
24 invalid provisions had not been included herein.

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