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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS -- NURSE LICENSURE COMPACT

Introduced By: Representatives Kennedy, Abney, Vella-Wilkinson, Azzinaro, and Diaz

Date Introduced: February 02, 2022

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 5-34.3-3, 5-34.3-4, 5-34.3-5, 5-34.3-6, 5-34.3-8, 5-34.3-9 and 5-
2 34.3-10 of the General Laws in Chapter 5-34.3 entitled "Nurse Licensure Compact" are hereby
3 amended to read as follows:

4 **5-34.3-3. Legislative findings.**

5 (a) The general assembly finds and declares that:

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

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

10 (3) The expanded mobility of nurses and the use of advanced communication technologies
11 as part of our nation's healthcare delivery system require greater coordination and cooperation
12 among states in the areas of nurse licensure and regulations;

13 (4) New practice modalities and technology make compliance with individual state nurse
14 licensure laws difficult and complex; ~~and~~

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

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

19 (b) The general purposes of this compact are to:

- 1 (1) Facilitate the states' responsibility to protect the public's health and safety;
- 2 (2) Ensure and encourage the cooperation of party states in the areas of nurse licensure and
3 regulation;
- 4 (3) Facilitate the exchange of information between party states in the areas of nurse
5 regulation, investigation and adverse actions;
- 6 (4) Promote compliance with the laws governing the practice of nursing in each
7 jurisdiction; ~~and~~
- 8 (5) Invest all party states with the authority to hold a nurse accountable for meeting all state
9 practice laws in the state in which the patient is located at the time care is rendered through the
10 mutual recognition of party state licenses- ;
- 11 (6) Decrease redundancies in the consideration and issuance of nurse licenses; and
- 12 (7) Provide opportunities for interstate practice by nurses who meet uniform licensure
13 requirements.

14 **5-34.3-4. Definitions.**

15 As used in this chapter:

- 16 (1) "Adverse action" means ~~a home or remote state action~~ any administrative, civil,
17 equitable or criminal action permitted by a state's laws which is imposed by a licensing board or
18 other authority against a nurse, including actions against an individual's license or multistate
19 licensure privilege such as revocation, suspension, probation, monitoring of the licensee, limitation
20 on the licensee's practice, or any other encumbrance on licensure affecting a nurse's authorization
21 to practice, including issuance of a cease and desist action.
- 22 (2) "Alternative program" means a ~~voluntary~~, nondisciplinary monitoring program
23 approved by a ~~nurse~~ licensing board.
- 24 (3) "Coordinated licensure information system" means an integrated process for collecting,
25 storing, and sharing information on nurse licensure and enforcement activities related to nurse
26 licensure laws, which is administered by a nonprofit organization composed of and controlled by
27 ~~state nurse~~ licensing boards.
- 28 (4) "Current significant investigative information" means:
- 29 (i) Investigative ~~investigative~~ information that a licensing board, after a preliminary inquiry
30 that includes notification and an opportunity for the nurse to respond if required by state law, has
31 reason to believe is not groundless and, if proved true, would indicate more than a minor infraction;
32 or
- 33 (ii) Investigative ~~investigative~~ information that indicates that the nurse represents an
34 immediate threat to public health and safety regardless of whether the nurse has been notified and

1 had an opportunity to respond.

2 (5) "Encumbrance" means a revocation or suspension of, or any limitation placed on, the
3 full and unrestricted practice of nursing imposed by a licensing board.

4 ~~(5)(6) "Home state" means the party state which is the nurse's primary state of residence.~~

5 ~~(6) "Home state action" means any administrative, civil, equitable or criminal action~~
6 ~~permitted by the home state's laws which are imposed on a nurse by the home state's licensing~~
7 ~~board or other authority including actions against an individual's license such as: revocation,~~
8 ~~suspension, probation or any other action which affects a nurse's authorization to practice.~~

9 (7) "Licensing board" means a party state's regulatory body responsible for issuing nurse
10 licenses.

11 (8) "Multistate licensure ~~privilege~~" means ~~current, official authority from a remote state~~
12 ~~permitting the practice of nursing as either a registered nurse or a licensed practical/vocational~~
13 ~~nurse in such party state. All party states have the authority, in accordance with existing state due~~
14 ~~process law, to take actions against the nurse's privilege such as: revocation, suspension, probation~~
15 ~~or any other action which affects a nurse's authorization to practice~~ a license to practice as a
16 registered nurse (RN) or a licensed practical nurse/vocational nurse (LPN/VN) issued by a home
17 state licensing board, that authorizes the licensed nurse to practice in all party states under a
18 multistate licensure privilege.

19 (9) "Multistate licensure privilege" means a legal authorization associated with a multistate
20 license, permitting the practice of nursing as either a registered nurse (RN) or licensed practical
21 nurse/vocational nurse (LPN/VN) in a remote state.

22 ~~(9)(10) "Nurse" means a registered nurse or licensed practical/vocational nurse, as those~~
23 ~~terms are defined by each party's state practice laws.~~

24 ~~(10)(11) "Party state" means any state that has adopted this compact.~~

25 ~~(11)(12) "Remote state" means a party state, other than the home state, where the patient~~
26 ~~is located at the time nursing care is provided, or, in the case of the practice of nursing not involving~~
27 ~~a patient, in such party state where the recipient of nursing practice is located.~~

28 ~~(12) "Remote state action" means any administrative, civil, equitable or criminal action~~
29 ~~permitted by a remote state's laws which are imposed on a nurse by the remote state's licensing~~
30 ~~board or other authority including actions against an individual's multistate licensure privilege to~~
31 ~~practice in the remote state, and cease and desist and other injunctive or equitable orders issued by~~
32 ~~remote states or the licensing boards thereof.~~

33 (13) "Single-state license" means a nurse license issued by a party state that authorizes
34 practice only within the issuing state and does not include a multistate licensure privilege to practice

1 in any other party state.

2 ~~(13)~~(14) "State" means a state, territory, or possession of the United States, and the District
3 of Columbia.

4 ~~(14)~~(15) "State practice laws" means ~~those individual party's state~~ a party states laws, rules
5 and regulations that govern the practice of nursing, define the scope of nursing practice, and create
6 the methods and grounds for imposing discipline. ~~It does~~ State practice laws do not include ~~the~~
7 ~~initial qualifications for licensure or~~ requirements necessary to obtain and retain a license, except
8 for qualifications or requirements of the home state.

9 **5-34.3-5. Permitted activities and jurisdiction General provisions and jurisdiction.**

10 ~~(a) A license to practice registered nursing issued by a home state to a resident in that state~~
11 ~~will be recognized by each party state as authorizing a multistate licensure privilege to practice as~~
12 ~~a registered nurse in such party state. A license to practice licensed practical/vocational nursing~~
13 ~~issued by a home state to a resident in that state will be recognized by each party state as authorizing~~
14 ~~a multistate licensure privilege to practice as a licensed practical/vocational nurse in such party~~
15 ~~state. In order to obtain or retain a license, an applicant must meet the home state's qualifications~~
16 ~~for licensure and license renewal as well as all other applicable state laws.~~

17 ~~(b) Party states may, in accordance with state due process laws, limit or revoke the~~
18 ~~multistate licensure privilege of any nurse to practice in their state and may take any other actions~~
19 ~~under their applicable state laws necessary to protect the health and safety of their citizens. If a~~
20 ~~party state takes such action, it shall promptly notify the administrator of the coordinated licensure~~
21 ~~information system. The administrator of the coordinated licensure information system shall~~
22 ~~promptly notify the home state of any such actions by remote states.~~

23 ~~(c) Every nurse practicing in a party state must comply with the state practice laws of the~~
24 ~~state in which the patient is located at the time care is rendered. In addition, the practice of nursing~~
25 ~~is not limited to patient care, but shall include all nursing practice as defined by the state practice~~
26 ~~laws of a party state. The practice of nursing will subject a nurse to the jurisdiction of the nurse~~
27 ~~licensing board and courts, as well as the laws, in that party state.~~

28 ~~(d) This compact does not affect additional requirements imposed by states for advanced~~
29 ~~practice registered nursing. However, a multistate licensure privilege to practice registered nursing~~
30 ~~granted by a party shall be recognized by other party states as a license to practice registered nursing~~
31 ~~if one is required by state law as a precondition for qualifying for advanced practice registered~~
32 ~~nurse authorization.~~

33 ~~(e) Individuals not residing in a party state shall continue to be able to apply for nurse~~
34 ~~licensure as provided for under the laws of each party state. However, the license granted to these~~

~~1 individuals will not be recognized as granting the privilege to practice nursing in any other party
2 state unless explicitly agreed to by that party state.~~

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

7 (b) A state must implement procedures for considering the criminal history records of
8 applicants for initial multistate license or licensure by endorsement. Such procedures shall include
9 the submission of fingerprints or other biometric-based information by applicants for the purpose
10 of obtaining an applicant's criminal history record information from the Federal Bureau of
11 Investigation, and the agency responsible for maintaining that state's criminal records.

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

14 (1) Meets the home state's qualifications for licensure or renewal of licensure, as well as
15 all other applicable state laws;

16 (2)(i) Has graduated or is eligible to graduate from a licensing board-approved RN or
17 LPN/VN prelicensure education program; or

18 (ii) Has graduated from a foreign RN or LPN/VN prelicensure education program that:

19 (A) Has been approved by the authorized accrediting body in the applicable country; and

20 (B) Has been verified by an independent credentials review agency to be comparable to a
21 licensing board-approved prelicensure education program;

22 (3) Has, if a graduate of a foreign prelicensure education program not taught in English or
23 if English is not the individual's native language, successfully passed an English proficiency
24 examination that includes the components of reading, speaking, writing and listening;

25 (4) Has successfully passed an NCLEX-RN® or NCLEX-PN® Examination or recognized
26 predecessor, as applicable;

27 (5) Is eligible for or holds an active, unencumbered license;

28 (6) Has submitted, in connection with an application for initial licensure or licensure by
29 endorsement, fingerprints or other biometric data for the purpose of obtaining criminal history
30 record information from the Federal Bureau of Investigation and the agency responsible for
31 maintaining that state's criminal records;

32 (7) Has not been convicted or found guilty nor entered into an agreed disposition of a felony
33 offense under applicable state or federal criminal law;

34 (8) Has not been convicted or found guilty nor entered into an agreed disposition of a

1 misdemeanor offense related to the practice of nursing as determined on a case-by-case basis;

2 (9) Is not currently enrolled in an alternative program;

3 (10) Is subject to self-disclosure requirements regarding current participation in an
4 alternative program; and

5 (11) Has a valid United States Social Security number.

6 (d) All party states shall be authorized, in accordance with existing state due process law,
7 to take adverse action against a nurse's multistate licensure privilege such as revocation, suspension,
8 probation or any other action that affects a nurse's authorization to practice under a multistate
9 licensure privilege, including cease and desist actions. If a party state takes such action, it shall
10 promptly notify the administrator of the coordinated licensure information system. The
11 administrator of the coordinated licensure information system shall promptly notify the home state
12 of any such actions by remote states.

13 (e) A nurse practicing in a party state must comply with the state practice laws of the state
14 in which the client is located at the time service is provided. The practice of nursing is not limited
15 to patient care, but shall include all nursing practice as defined by the state practice laws of the
16 party state in which the client is located. The practice of nursing in a party state under a multistate
17 licensure privilege will subject a nurse to the jurisdiction of the licensing board, the courts and the
18 laws of the party state in which the client is located at the time service is provided.

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

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

27 (1) A nurse, who changes primary state of residence after this compact's effective date,
28 must meet all applicable requirements pursuant to subsection (c) of this section to obtain a
29 multistate license from a new home state; and

30 (2) A nurse who fails to satisfy the multistate licensure requirements due to a disqualifying
31 event occurring after this compact's effective date shall be ineligible to retain or renew a multistate
32 license, and the nurse's multistate license shall be revoked or deactivated in accordance with
33 applicable rules adopted by the commission.

34 **5-34.3-6. Applications for licensure in a party state.**

1 ~~(a) Upon application for a license, the licensing board in a party state shall ascertain,~~
2 ~~through the coordinated licensure information system, whether the applicant has ever held, or is the~~
3 ~~holder of, a license issued by any other state, whether there are any restrictions on the multistate~~
4 ~~licensure privilege, and whether any other adverse action by any state has been taken against the~~
5 ~~license.~~

6 ~~(b) A nurse in a party state shall hold licensure in only one party state at a time, issued by~~
7 ~~the home state.~~

8 ~~(c) A nurse who intends to change primary state of residence may apply for licensure in~~
9 ~~the new home state in advance of such change. However, new licenses will not be issued by a party~~
10 ~~state until after a nurse provides evidence of change in primary state of residence satisfactory to the~~
11 ~~new home state's licensing board.~~

12 ~~(d) When a nurse changes primary state of residence by;~~

13 ~~(1) Moving between two party states, and obtains a license from the new home state, the~~
14 ~~license from the former home state is no longer valid;~~

15 ~~(2) Moving from a non party state to a party state, and obtains a license from the new home~~
16 ~~state, the individual state license issued by the non party state is not affected and will remain in full~~
17 ~~force if so provided by the laws of the non party state;~~

18 ~~(3) Moving from a party state to a non party state, the license issued by the prior home~~
19 ~~state converts to an individual state license, valid only in the former home state, without the~~
20 ~~multistate licensure privilege to practice in other party states.~~

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

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

29 (c) If a nurse changes primary state of residence by moving between two (2) party states,
30 the nurse must apply for licensure in the new home state, and the multistate license issued by the
31 prior home state will be deactivated in accordance with applicable rules adopted by the commission.

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

33 (2) A multistate license shall not be issued by the new home state until the nurse provides
34 satisfactory evidence of a change in primary state of residence to the new home state and satisfies

1 all applicable requirements to obtain a multistate license from the new home state.

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

5 **5-34.3-8. Additional authorities invested in party state nurse licensing boards.**

6 ~~(a) Notwithstanding any~~ In addition to the other powers conferred by state law, ~~party state~~
7 ~~nurse a~~ licensing ~~boards~~ board shall have the authority to:

8 ~~(1) If otherwise permitted by state law, recover from the affected nurse the costs of~~
9 ~~investigations and disposition of cases resulting from any adverse action taken against that nurse;~~

10 ~~(2) Issue subpoenas for both hearings and investigations which require the attendance and~~
11 ~~testimony of witnesses, and the production of evidence. Subpoenas issued by a nurse licensing~~
12 ~~board in a party state for the attendance and testimony of witnesses, and/or the production of~~
13 ~~evidence from another party state, shall be enforced in the latter state by any court of competent~~
14 ~~jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in~~
15 ~~proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses,~~
16 ~~mileage and other fees required by the service statutes of the state where the witnesses and/or~~
17 ~~evidence are located.~~

18 ~~(3) Issue cease and desist orders to limit or revoke a nurse's authority to practice in their~~
19 ~~state;~~

20 ~~(4) Promulgate uniform rules and regulations as provided for in § 5-34.3-10(c).~~

21 (1) Take adverse action against a nurse's multistate licensure privilege to practice within
22 that party state.

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

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

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

31 (3) Complete any pending investigations of a nurse who changes primary state of residence
32 during the course of such investigations. The licensing board shall also have the authority to take
33 appropriate action(s) and shall promptly report the conclusions of such investigations to the
34 administrator of the coordinated licensure information system. The administrator of the coordinated

1 licensure information system shall promptly notify the new home state of any such actions.

2 (4) Issue subpoenas for both hearings and investigations that require the attendance and
3 testimony of witnesses, as well as, the production of evidence. Subpoenas issued by a licensing
4 board in a party state for the attendance and testimony of witnesses or the production of evidence
5 from another party state shall be enforced in the latter state by any court of competent jurisdiction,
6 according to the practice and procedure of that court applicable to subpoenas issued in proceedings
7 pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and
8 other fees required by the service statutes of the state in which the witnesses or evidence are located.

9 (5) Obtain and submit, for each nurse licensure applicant, fingerprint or other biometric-
10 based information to the Federal Bureau of Investigation for criminal background checks, receive
11 the results of the Federal Bureau of Investigation record search on criminal background checks and
12 use the results in making licensure decisions.

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

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

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

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

27 **5-34.3-9. ~~Coordinated licensure information system~~ Coordinated licensure**
28 **information system and exchange of information.**

29 (a) All party states shall participate in a ~~cooperative effort to create a~~ coordinated ~~data base~~
30 licensure information system of all licensed registered nurses (RNs) and licensed practical
31 nurses/vocational nurses (LPNs/VNs). This system will include information on the licensure and
32 disciplinary history of each nurse, as ~~contributed~~ submitted by party states, to assist in the
33 coordination of nurse licensure and enforcement efforts.

34 ~~(b) Notwithstanding any other provision of law, all party states' licensing boards shall~~

1 ~~promptly report adverse actions, actions against multistate licensure privileges, any current~~
2 ~~significant investigative information yet to result in adverse action, denials of applications, and the~~
3 ~~reasons for such denials, to the coordinated licensure information system.~~

4 (b) The commission, in consultation with the administrator of the coordinated licensure
5 information system, shall formulate necessary and proper procedures for the identification,
6 collection and exchange of information under this compact.

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

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

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

19 ~~(f)~~ (f) Any personally identifiable information obtained from the coordinated licensure
20 information system by a party state's licensing board shall ~~from the coordinated licensure~~
21 ~~information system may~~ not be shared with non-party states or disclosed to other entities or
22 individuals except to the extent permitted by the laws of the party state contributing the information.

23 ~~(g)~~ (g) Any information contributed to the coordinated licensure information system that is
24 subsequently required to be expunged by the laws of the party state contributing that information,
25 shall also be expunged from the coordinated licensure information system.

26 ~~(g) The compact administrators, acting jointly with each other and in consultation with the~~
27 ~~administrator of the coordinated licensure information system, shall formulate necessary and proper~~
28 ~~procedures for the identification, collection and exchange of information under this compact.~~

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

31 (1) Identifying information;

32 (2) Licensure data;

33 (3) Information related to alternative program participation; and

34 (4) Other information that may facilitate the administration of this compact, as determined

1 by commission rules.

2 (i) The compact administrator of a party state shall provide all investigative documents and
3 information requested by another party state.

4 **5-34.3-10. Compact administration and interchange of information** **Establishment of**
5 **the interstate commission of nurse licensure compact administrators.**

6 ~~(a) The head of the nurse licensing board, or his/her designee, of each party state shall be~~
7 ~~the administrator of this compact for his/her state.~~

8 ~~(b) The compact administrator of each party shall furnish to the compact administrator of~~
9 ~~each other party state any information and documents including, but not limited to, a uniform data~~
10 ~~set of investigations, identifying information, licensure data, and disclosable alternative program~~
11 ~~participation information to facilitate the administration of this compact.~~

12 ~~(c) Compact administrators shall have the authority to develop uniform rules to facilitate~~
13 ~~and coordinate implementation of this compact. These uniform rules shall be adopted by party~~
14 ~~states, under the authority invested under § 5-34.3-8(4).~~

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

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

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

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

23 (b) Membership, voting and meetings:

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

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

34 (3) The commission shall meet at least once during each calendar year. Additional meetings

1 shall be held as set forth in the bylaws or rules of the commission.

2 (4) All meetings shall be open to the public, and public notice of meetings shall be given
3 in the same manner as required under the rulemaking provisions in § 5-34.3-10.1.

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

6 (i) Noncompliance of a party state with its obligations under this compact;
7 (ii) The employment, compensation, discipline or other personnel matters, practices or
8 procedures related to specific employees or other matters related to the commission's internal
9 personnel practices and procedures;

10 (iii) Current, threatened or reasonably anticipated litigation;
11 (iv) Negotiation of contracts for the purchase or sale of goods, services or real estate;
12 (v) Accusing any person of a crime or formally censuring any person;
13 (vi) Disclosure of trade secrets or commercial or financial information that is privileged or
14 confidential;

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

17 (viii) Disclosure of investigatory records compiled for law enforcement purposes;
18 (ix) Disclosure of information related to any reports prepared by or on behalf of the
19 commission for the purpose of investigation of compliance with this compact; or

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

21 (6) If a meeting, or portion of a meeting, is closed pursuant to this provision, the
22 commission's legal counsel or designee shall certify that the meeting may be closed and shall
23 reference each relevant exempting provision. The commission shall keep minutes that fully and
24 clearly describe all matters discussed in a meeting and shall provide a full and accurate summary
25 of actions taken, and the reasons therefor, including a description of the views expressed. All
26 documents considered in connection with an action shall be identified in such minutes. All minutes
27 and documents of a closed meeting shall remain under seal, subject to release by a majority vote of
28 the commission or order of a court of competent jurisdiction.

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

32 (1) Establishing the fiscal year of the commission;
33 (2) Providing reasonable standards and procedures;
34 (i) For the establishment and meetings of other committees; and

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

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

10 (4) Establishing the titles, duties, authority, and reasonable procedures for the election of
11 the officers of the commission;

12 (5) Providing reasonable standards and procedures for the establishment of the personnel
13 policies and programs of the commission. Notwithstanding any civil service or other similar laws
14 of any party state, the bylaws shall exclusively govern the personnel policies and programs of the
15 commission; and

16 (6) Providing a mechanism for winding up the operations of the commission and the
17 equitable disposition of any surplus funds that may exist after the termination of this compact, after
18 the payment or reserving of all of its debts and obligations.

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

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

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

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

25 (1) To promulgate uniform rules to facilitate and coordinate implementation and
26 administration of this compact. The rules shall have the force and effect of law and shall be binding
27 in all party states;

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

31 (3) To purchase and maintain insurance and bonds;

32 (4) To borrow, accept or contract for services of personnel, including, but not limited to,
33 employees of a party state or nonprofit organizations;

34 (5) To cooperate with other organizations that administer state compacts related to the

1 regulation of nursing, including, but not limited to, sharing administrative or staff expenses, office
2 space or other resources;

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

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

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

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

15 (10) To establish a budget and make expenditures;

16 (11) To borrow money;

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

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

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

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

25 (h) Financing of the commission.

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

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

33 (3) The commission shall not incur obligations of any kind prior to securing the funds
34 adequate to meet the same; nor shall the commission pledge the credit of any of the party states,

1 except by, and with the authority of, such party state:

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

7 (i) Qualified immunity, defense and indemnification.

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

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

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

31 SECTION 2. Chapter 5-34.3 of the General Laws entitled "Nurse Licensure Compact" is
32 hereby amended by adding thereto the following sections:

33 **5-34.3-10.1. Rulemaking.**

34 (a) The commission shall exercise its rulemaking powers pursuant to the criteria set forth

1 in this section and the rules adopted thereunder. Rules and amendments shall become binding as of
2 the date specified in each rule or amendment and shall have the same force and effect as provisions
3 of this compact.

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

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

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

10 (2) On the website of each licensing board or the publication in which each state would
11 otherwise publish proposed rules.

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

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

15 (2) The text of the proposed rule or amendment, and the reason for the proposed rule;

16 (3) A request for comments on the proposed rule from any interested person; and

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

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

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

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

24 (1) Hearings shall be conducted in a manner providing each person who wishes to comment
25 a fair and reasonable opportunity to comment orally or in writing. All hearings will be recorded,
26 and a copy will be made available upon request.

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

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

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

34 (j) The commission shall, by majority vote of all administrators, take final action on the

1 proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking
2 record and the full text of the rule.

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

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

10 (2) Prevent a loss of commission or party state funds; or

11 (3) Meet a deadline for the promulgation of an administrative rule that is required by federal
12 law or rule.

13 (l) The commission may direct revisions to a previously adopted rule or amendment for
14 purposes of correcting typographical errors, errors in format, errors in consistency or grammatical
15 errors. Public notice of any revisions shall be posted on the website of the commission. The revision
16 shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision
17 may be challenged only on grounds that the revision results in a material change to a rule. A
18 challenge shall be made in writing, and delivered to the commission, prior to the end of the notice
19 period. If no challenge is made, the revision will take effect without further action. If the revision
20 is challenged, the revision may not take effect without the approval of the commission.

21 **5-34.3-10.2. Oversight, dispute resolution and enforcement.**

22 (a) Oversight.

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

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

30 (b) Default, technical assistance and termination.

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

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

1 and

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

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

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

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

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

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

22 (c) Dispute Resolution.

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

25 (2) The commission shall promulgate a rule providing for both mediation and binding
26 dispute resolution for disputes, as appropriate;

27 (3) In the event the commission cannot resolve disputes among party states arising under
28 this compact:

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

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

34 (d) Enforcement.

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

3 (2) By majority vote, the commission may initiate legal action in the U.S. District Court
4 for the District of Columbia or the federal district where the commission has its principal offices,
5 against a party state that is in default, to enforce compliance with the provisions of this compact
6 and its promulgated rules and bylaws. The relief sought may include both injunctive relief and
7 damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all
8 costs of such litigation, including reasonable attorneys' fees;

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

11 **5-34.3-10.3. Effective date, withdrawal and amendment.**

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

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

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

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

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

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

32 (g) Representatives of non-party states to this compact shall be invited to participate In the
33 activities of the commission, on a nonvoting basis, prior to the adoption of this compact by all
34 states.

1 **5-34.3-10.4. Construction and Severability.**

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

11 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO BUSINESSES AND PROFESSIONS -- NURSE LICENSURE COMPACT

- 1 This act would amend the interstate nurse licensure compact and would adopt an enhanced
- 2 and more comprehensive version of the compact, to allow nurses to hold a multi-state license which
- 3 would allow them to practice across state lines without having to obtain multiple licenses.
- 4 This act would take effect upon passage.

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