

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

**Introduced**

### **House Bill 2522**

BY DELEGATES ELLINGTON, SUMMERS, ROHRBACH

SOBONYA, DEAN, COOPER, HOLLEN AND ROWAN

[Introduced February 16, 2017; Referred  
to the Committee on Health and Human Resources  
then the Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
 2 designated §30-7F-1, §30-7F-2, §30-7F-3, §30-7F-4, §30-7F-5, §30-7F-6, §30-7F-7, §30-  
 3 7F-8, §30-7F-9, §30-7F-10 and §30-7F-11, all relating to the establishment and operation  
 4 of an interstate compact for licensure of nurses; setting forth findings; setting forth the  
 5 purposes for the compact; defining terms; providing eligibility requirements; requiring a  
 6 nurse to designate a state of principal license; providing licensure requirements;  
 7 establishing a licensure process; providing for fees; providing requirements for renewal of  
 8 a license; providing for joint investigation of nurses by member boards; establishing the  
 9 effect of disciplinary actions; creating the commission to administer the compact; setting  
 10 forth commission composition; establishing the authority of the commission; providing  
 11 immunity; establishing commission rule making authority; providing for judicial review;  
 12 providing for state enforcement; providing the commission may intervene in proceedings;  
 13 providing for legal enforcement of compact rules and provisions; providing for termination  
 14 or withdrawal of a member state; setting forth provisions for resolution of disputes;  
 15 establishing provisions for state eligibility; setting forth the circumstances under which the  
 16 compact will become effective; providing for amending the compact; setting forth  
 17 procedures for states to withdraw from the Compact; providing process to amend the  
 18 Compact; and establishing provisions related to severability.

*Be it enacted by the Legislature of West Virginia:*

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new  
 2 article, designated §30-7F-1, §30-7F-2, §30-7F-3, §30-7F-4, §30-7F-5, §30-7F-6, §30-7F-7, §30-  
 3 7F-8, §30-7F-9, §30-7F-10 and §30-7F-11, all to read as follows:

**ARTICLE 7F. NURSE LICENSURE COMPACT.**

**§30-7F-1. Findings and Declaration of Purpose.**

1 (a) The party states find that:

2 (1) The health and safety of the public are affected by the degree of compliance with and

3 the effectiveness of enforcement activities related to state nurse licensure laws;

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

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

9 (4) New practice modalities and technology make compliance with individual state nurse  
10 licensure laws difficult and complex;

11 (5) The current system of duplicative licensure for nurses practicing in multiple states is  
12 cumbersome and redundant for both nurses and states; and

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

15 (b) The general purposes of this Compact are to:

16 (1) Facilitate the states' responsibility to protect the public's health and safety;

17 (2) Ensure and encourage the cooperation of party states in the areas of nurse licensure  
18 and regulation;

19 (3) Facilitate the exchange of information between party states in the areas of nurse  
20 regulation, investigation and adverse actions;

21 (4) Promote compliance with the laws governing the practice of nursing in each  
22 jurisdiction;

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

26 (6) Decrease redundancies in the consideration and issuance of nurse licenses; and

27 (7) Provide opportunities for interstate practice by nurses who meet uniform licensure  
28 requirements.

**§30-7F-2. Definitions.**

1           As used in this Compact:

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

8           (2) "Alternative program" means a nondisciplinary monitoring program approved by a  
9 licensing board.

10           (3) "Coordinated licensure information system" means an integrated process for collecting,  
11 storing and sharing information on nurse licensure and enforcement activities related to nurse  
12 licensure laws that is administered by a nonprofit organization composed of and controlled by  
13 licensing boards.

14           (4) "Current significant investigative information" means:

15           (A) Investigative information that a licensing board, after a preliminary inquiry that includes  
16 notification and an opportunity for the nurse to respond, if required by state law, has reason to  
17 believe is not groundless and, if proven true, would indicate more than a minor infraction; or

18           (B) Investigative information that indicates that the nurse represents an immediate threat  
19 to public health and safety regardless of whether the nurse has been notified and had an  
20 opportunity to respond.

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

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

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

26 (8) “Multistate license” means a license to practice as a registered or a licensed  
27 practical/vocational nurse (LPN/VN) issued by a home state licensing board that authorizes the  
28 licensed nurse to practice in all party states under a multistate licensure privilege.

29 (9) “Multistate licensure privilege” means a legal authorization associated with a multistate  
30 license permitting the practice of nursing as either a registered nurse (RN) or LPN/VN in a remote  
31 state.

32 (10) “Nurse” means RN or LPN/VN, as those terms are defined by each party state’s  
33 practice laws.

34 (11) “Party state” means any state that has adopted this Compact.

35 (12) “Remote state” means a party state, other than the home state.

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

39 (14) “State” means a state, territory or possession of the United States and the District of  
40 Columbia.

41 (15) “State practice laws” means a party state’s laws, rules and regulations that govern  
42 the practice of nursing, define the scope of nursing practice, and create the methods and grounds  
43 for imposing discipline. “State practice laws” do not include requirements necessary to obtain and  
44 retain a license, except for qualifications or requirements of the home state.

**§30-7F-3. General Provisions and Jurisdiction.**

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

5 (b) A state must implement procedures for considering the criminal history records of  
6 applicants for initial multistate license or licensure by endorsement. Such procedures shall include

7 the submission of fingerprints or other biometric-based information by applicants for the purpose  
8 of obtaining an applicant's criminal history record information from the Federal Bureau of  
9 Investigation and the agency responsible for retaining that state's criminal records.

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

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

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

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

17 (i) Has been approved by the authorized accrediting body in the applicable country and;

18 (ii) Has been verified by an independent credentials review agency to be comparable to a  
19 licensing board-approved prelicensure education program.

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

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

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

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

30 (7) Has not been convicted or found guilty, or has entered into an agreed disposition, of a  
31 felony offense under applicable state or federal criminal law;

32 (8) Has not been convicted or found guilty, or has entered into an agreed disposition, of a

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

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

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

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

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

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

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

56 (g) Any nurse holding a home state multistate license, on the effective date of this  
57 Compact, may retain and renew the multistate license issued by the nurse's then-current home  
58 state, provided that:

59 (1) A nurse, who changes primary state of residence after this Compact's effective date,  
60 must meet all applicable subsection (c) section three requirements to obtain a multistate license  
61 from a new home state.

62 (2) A nurse who fails to satisfy the multistate licensure requirements in subsection (c)  
63 section three due to a disqualifying event occurring after this Compact's effective date shall be  
64 ineligible to retain or renew a multistate license, and the nurse's multistate license shall be  
65 revoked or deactivated in accordance with applicable rules adopted by the Interstate Commission  
66 of Nurse Licensure Compact Administrators ("Commission").

**§30-7F-4. Applications for Licensure in a Party State.**

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

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

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

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

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

17 (d) If a nurse changes primary state of residence by moving from a party state to a

18 nonparty state, the multistate license issued by the prior home state will convert to a single-state  
19 license, valid only in the former home state.

**§30-7F-5. Additional Authorities Invested in Party State Licensing Boards.**

1 (a) In addition to the other powers conferred by state law, a licensing board shall have the  
2 authority to:

3 (1) Take adverse action against a nurse’s multistate licensure privilege to practice within  
4 that party state.

5 (A) Only the home state shall have the power to take adverse action against a nurse’s  
6 license issued by the home state.

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

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

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

19 (4) Issue subpoenas for both hearings and investigations that require the attendance and  
20 testimony of witnesses, as well as, the production of evidence. Subpoenas issued by a licensing  
21 board in a party state for the attendance and testimony of witnesses or the production of evidence  
22 from another party state shall be enforced in the latter state by any court of competent jurisdiction,  
23 according to the practice and procedure of that court applicable to subpoenas issued in

24 proceedings pending before 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 which the witnesses or  
26 evidence are located.

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

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

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

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

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

#### **§30-7F-6. Coordinated Licensure Information System and Exchange of Information.**

1 (a) All party states shall participate in a coordinated licensure information system of all  
2 licensed registered nurses (RNs) and licensed practical/vocational nurses (LPNs/VNs). This  
3 system will include information on the licensure and disciplinary history of each nurse, as  
4 submitted by party states, to assist in the coordination of nurse licensure and enforcement efforts.

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

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

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

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

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

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

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

29           (1) Identifying information;

30           (2) Licensure data;

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

32 (4) Other information that may facilitate the administration of this Compact, as determined  
33 by commission rules.

34 (i) The Compact administrator of a party state shall provide all investigative documents  
35 and information requested by another party state.

### **§30-7F-7. Establishment of the Interstate Commission of Nurse Licensure Compact**

#### **Administrators.**

1 (a) The party states hereby create and establish a joint public entity known as the  
2 Interstate Commission of Nurse Licensure Compact Administrators.

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

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

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

9 (b) Membership, Voting and Meetings.

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

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

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

22 (4) All meetings shall be open to the public, and public notice of meetings shall be given  
23 in the same manner as required under the rulemaking provisions in section eight.

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

26 (A) Noncompliance of a party state with its obligations under this Compact;

27 (B) The employment, compensation, discipline or other personnel matters, practices or  
28 procedures related to specific employees or other matters related to the commission's internal  
29 personnel practices and procedures;

30 (C) Current, threatened or reasonably anticipated litigation;

31 (D) Negotiation of contracts for the purchase or sale of goods, services or real estate;

32 (E) Accusing any person of a crime or formally censuring any person;

33 (F) Disclosure of trade secrets or commercial or financial information that is privileged or  
34 confidential;

35 (G) Disclosure of information of a personal nature where disclosure would constitute a  
36 clearly unwarranted invasion of personal privacy;

37 (H) Disclosure of investigatory records compiled for law enforcement purposes;

38 (I) Disclosure of information related to any reports prepared by or on behalf of the  
39 commission for the purpose of investigation of compliance with this Compact; or

40 (J) Matters specifically exempted from disclosure by federal or state statute.

41 (6) If a meeting, or portion of a meeting, is closed pursuant to this provision, the  
42 commission's legal counsel or designee shall certify that the meeting may be closed and shall  
43 reference each relevant exempting provision. The commission shall keep minutes that fully and  
44 clearly describe all matters discussed in a meeting and shall provide a full and accurate summary  
45 of actions taken, and the reasons therefor, including a description of the views expressed. All

46 documents considered in connection with an action shall be identified in such minutes. All minutes  
47 and documents of a closed meeting shall remain under seal, subject to release by a majority vote  
48 of the commission or order of a court of competent jurisdiction.

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

52 (1) Establishing the fiscal year of the commission;

53 (2) Providing reasonable standards and procedures:

54 (A) For the establishment and meetings of other committees; and

55 (B) Governing any general or specific delegation of any authority or function of the  
56 commission;

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

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

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

71 (6) Providing a mechanism for winding up the operations of the commission and the

72 equitable disposition of any surplus funds that may exist after the termination of this Compact  
73 after the payment or reserving of all of its debts and obligations;

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

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

77 (f) The commission shall meet and take such actions as are consistent with the provisions  
78 of this Compact and the bylaws.

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

80 (1) To promulgate uniform rules to facilitate and coordinate implementation and  
81 administration of this Compact. The rules shall have the force and effect of law and shall be  
82 binding in all party states;

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

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

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

89 (5) To cooperate with other organizations that administer state compacts related to the  
90 regulation of nursing, including but not limited to sharing administrative or staff expenses, office  
91 space or other resources;

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

96 (7) To accept any and all appropriate donations, grants and gifts of money, equipment,  
97 supplies, materials and services, and to receive, utilize and dispose of the same; provided that at

98 all times the commission shall avoid any appearance of impropriety or conflict of interest;

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

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

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

105 (11) To borrow money;

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

109 (13) To provide and receive information from, and to cooperate with, law-enforcement  
110 agencies;

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

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

114 (h) Financing of the commission.

115 (1) The commission shall pay, or provide for the payment of, the reasonable expenses of  
116 its establishment, organization and ongoing activities.

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

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

124 except by, and with the authority of, such party state.

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

131 (i) Qualified Immunity, Defense and Indemnification.

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

140 (2) The commission shall defend any administrator, officer, executive director, employee  
141 or representative of the commission in any civil action seeking to impose liability arising out of any  
142 actual or alleged act, error or omission that occurred within the scope of commission employment,  
143 duties or responsibilities, or that the person against whom the claim is made had a reasonable  
144 basis for believing occurred within the scope of commission employment, duties or  
145 responsibilities; provided that nothing herein shall be construed to prohibit that person from  
146 retaining his or her own counsel; and provided further that the actual or alleged act, error or  
147 omission did not result from that person's intentional, willful or wanton misconduct.

148 (3) The commission shall indemnify and hold harmless any administrator, officer,  
149 executive director, employee or representative of the commission for the amount of any

150 settlement or judgment obtained against that person arising out of any actual or alleged act, error  
151 or omission that occurred within the scope of commission employment, duties or responsibilities,  
152 or that such person had a reasonable basis for believing occurred within the scope of commission  
153 employment, duties or responsibilities, provided that the actual or alleged act, error or omission  
154 did not result from the intentional, willful or wanton misconduct of that person.

**§30-7F-8. Rulemaking.**

1 (a) The commission shall exercise its rulemaking powers pursuant to the criteria set forth  
2 in this section and the rules adopted thereunder. Rules and amendments shall become binding  
3 as of the date specified in each rule or amendment and shall have the same force and effect as  
4 provisions of this Compact.

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

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

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

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

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

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

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

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

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

20 (e) Prior to adoption of a proposed rule, the commission shall allow persons to submit

21 written data, facts, opinions and arguments, which shall be made available to the public.

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

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

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

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

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

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

35 (j) The commission shall, by majority vote of all administrators, take final action on the  
36 proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking  
37 record and the full text of the rule.

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

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

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

46 (3) Meet a deadline for the promulgation of an administrative rule that is required by federal

47 law or rule.

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

**§30-7F-9. Oversight, Dispute Resolution and Enforcement.**

1 (a) Oversight

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

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

9 (b) Default, Technical Assistance and Termination

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

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

15 (B) Provide remedial training and specific technical assistance regarding the default.

16 (2) If a state in default fails to cure the default, the defaulting state's membership in this

17 Compact may be terminated upon an affirmative vote of a majority of the administrators, and all  
18 rights, privileges and benefits conferred by this Compact may be terminated on the effective date  
19 of termination. A cure of the default does not relieve the offending state of obligations or liabilities  
20 incurred during the period of default.

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

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

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

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

35 (c) Dispute Resolution

36 (1) Upon request by a party state, the commission shall attempt to resolve disputes related  
37 to the Compact that arise among party states and between party and nonparty states.

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

40 (3) In the event the commission cannot resolve disputes among party states arising under  
41 this Compact:

42 (A) The party states may submit the issues in dispute to an arbitration panel, which will be

43 comprised of individuals appointed by the Compact administrator in each of the affected party  
44 states and an individual mutually agreed upon by the Compact administrators of all the party  
45 states involved in the dispute.

46 (B) The decision of a majority of the arbitrators shall be final and binding.

47 (d) Enforcement

48 (1) The commission, in the reasonable exercise of its discretion, shall enforce the  
49 provisions and rules of this Compact.

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

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

#### **§30-7F-10. Effective Date, Withdrawal and Amendment.**

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

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

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

11 repealing statute.

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

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

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

21 (g) Representatives of nonparty states to this Compact shall be invited to participate in the  
22 activities of the Commission, on a nonvoting basis, prior to the adoption of this Compact by all  
23 states.

**§30-7F-11. Construction and Severability.**

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

NOTE: The purpose of this bill is to permit the entering into an interstate licensure compact

for registered nurses and practical nurses.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.