

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2521

BY DELEGATES SUMMERS, ELLINGTON, SOBONYA,

HOLLEN, ROHRBACH AND DEAN

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

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 enacting the Advanced Practice
 4 Registered Nurse Compact.

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. ADVANCED PRACTICE REGISTERED NURSE 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
 3 advanced practice registered nurse licensure requirements and the effectiveness of enforcement
 4 activities related to state advanced practice registered nurse licensure laws;

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

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

11 (4) New practice modalities and technology make compliance with individual state
 12 advanced practice registered nurse licensure laws difficult and complex;

13 (5) The current system of duplicative advanced practice registered nurse licensure for
 14 advanced practice registered nurses practicing in multiple states is cumbersome and redundant
 15 for both advanced practice registered nurses and states;

16 (6) Uniformity of advanced practice registered nurse licensure requirements throughout

17 the states promotes public safety and public health benefits.

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

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

20 (2) Ensure and encourage the cooperation of party states in the areas of advanced
21 practice registered nurse licensure and regulation, including promotion of uniform licensure
22 requirements;

23 (3) Facilitate the exchange of information between party states in the areas of advanced
24 practice registered nurse regulation, investigation and adverse actions;

25 (4) Promote compliance with the laws governing advanced practice registered nurse
26 practice in each jurisdiction;

27 (5) Invest all party states with the authority to hold an advanced practice registered nurse
28 accountable for meeting all state practice laws in the state in which the patient is located at the
29 time care is rendered through the mutual recognition of party state licenses;

30 (6) Decrease redundancies in the consideration and issuance of advanced practice
31 registered nurse licenses; and

32 (7) Provide opportunities for interstate practice by advanced practice registered nurses
33 who meet uniform licensure requirements.

§30-7F-2. Definitions.

1 As used in this compact:

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

8 "Adverse action" means any administrative, civil, equitable or criminal action permitted by

9 a state's laws which is imposed by a licensing board or other authority against an advanced
10 practice registered nurse, including actions against an individual's license or multistate licensure
11 privilege such as revocation, suspension, probation, monitoring of the licensee, limitation on the
12 licensee's practice, or any other encumbrance on licensure affecting an advanced practice
13 registered nurse's authorization to practice, including the issuance of a cease and desist action.

14 "Alternative program" means a, nondisciplinary monitoring program approved by a
15 licensing board.

16 "Advanced practice registered nurse licensure" means the regulatory mechanism used by
17 a party state to grant legal authority to practice as an advanced practice registered nurse.

18 "Advanced practice registered nurse uniform licensure requirements" means minimum
19 uniform licensure, education and examination requirements as adopted by the commission.

20 "Commission" means the Interstate Commission of Advanced Practice Registered Nurse
21 Compact Administrators.

22 "Coordinated licensure information system" means an integrated process for collecting,
23 storing and sharing information on advanced practice registered nurse licensure and enforcement
24 activities related to advanced practice registered nurse licensure laws that is administered by a
25 nonprofit organization composed of and controlled by licensing boards.

26 "Current significant investigatory information" means:

27 (A) Investigative information that a licensing board, after a preliminary inquiry that includes
28 notification and an opportunity for the advanced practice registered nurse to respond, if required
29 by state law, has reason to believe is not groundless and, if proved true, would indicate more than
30 a minor infraction; or

31 (B) Investigative information that indicates that the advanced practice registered nurse
32 represents an immediate threat to public health and safety regardless of whether the advanced
33 practice registered nurse has been notified and had an opportunity to respond.

34 "Encumbrance" means a revocation or suspension of, or any limitation on, the full and

35 unrestricted practice of nursing imposed by a licensing board.

36 “Home state” means the party state that is the advanced practice registered nurse’s
37 primary state of residence.

38 “Licensing board” means a party state’s regulatory body responsible for regulating the
39 practice of advanced practice registered nursing.

40 “Multistate license” means an advanced practice registered nurse license to practice as
41 an advanced practice registered nurse issued by a home state licensing board that authorizes the
42 advanced practice registered nurse to practice as an advanced practice registered nurse in all
43 party states under a multistate licensure privilege, in the same role and population focus as the
44 advanced practice registered nurse is licensed in the home state.

45 “Multistate licensure privilege” means a legal authorization associated with an advanced
46 practice registered nurse multistate license that permits an advanced practice registered nurse to
47 practice as an advanced practice registered nurse in a remote state, in the same role and
48 population focus as the advanced practice registered nurse is licensed in the home state.

49 “Noncontrolled prescription drug” means a device or drug that is not a controlled
50 substance and is prohibited under state or federal law from being dispensed without a
51 prescription. The term includes a device or drug that bears or is required to bear the legend
52 “Caution: federal law prohibits dispensing without prescription” or “prescription only” or other
53 legend that complies with federal law.

54 “Party state” means any state that has adopted this compact.

55 “Population focus” means a specific patient population that is congruent with the advanced
56 practice registered nurse educational program, certification, and commission rules.

57 “Prescriptive authority” means the legal authority to prescribe medications and devices as
58 defined by party state laws.

59 “Remote state” means a party state that is not the home state.

60 “Single-state license” means an advanced practice registered nurse license issued by a

61 party state that authorizes practice only within the issuing state and does not include a multistate
62 licensure privilege to practice in any other party state.

63 “State” means a state, territory or possession of the United States and the District of
64 Columbia.

65 “State practice laws” means a party state’s laws, rules and regulations that govern
66 advanced practice registered nurse practice, define the scope of advanced nursing practice,
67 including prescriptive authority, and create the methods and grounds for imposing discipline.
68 State practice laws do not include the requirements necessary to obtain and retain an advanced
69 practice registered nurse license, except for qualifications or requirements of the home state.

§30-7F-3. General provisions and jurisdiction.

1 (a) A state must implement procedures for considering the criminal history records of
2 applicants for initial advanced practice registered nurse licensure or advanced practice registered
3 nurse licensure by endorsement. Such procedures shall include the submission of fingerprints or
4 other biometric-based information by advanced practice registered nurse applicants for the
5 purpose of obtaining an applicant’s criminal history record information from the Federal Bureau
6 of Investigation and the agency responsible for retaining that state’s criminal records.

7 (b) By rule, the commission shall adopt the advanced practice registered nurse uniform
8 licensure requirements. The advanced practice registered nurse uniform licensure requirements
9 shall provide the minimum requirements for advanced practice registered nurse multistate
10 licensure in party states, provided that the commission may adopt rules whereby an advanced
11 practice registered nurse, with an unencumbered license on the effective date of this compact,
12 may obtain, by endorsement or otherwise, and retain a multistate license in a party state.

13 (c) In order to obtain or retain a multistate license, an advanced practice registered nurse
14 must meet, in addition to the advanced practice registered nurse uniform licensure requirements,
15 the home state’s qualifications for licensure or renewal of licensure, as well as, all other applicable
16 home state laws.

17 (d) By rule, the commission shall identify the approved advanced practice registered nurse
18 roles and population foci for licensure as an advanced practice registered nurse. An advanced
19 practice registered nurse issued a multistate license shall be licensed in an approved advanced
20 practice registered nurse role and at least one approved population focus.

21 (e) An advanced practice registered nurse multistate license issued by a home state to a
22 resident in that state will be recognized by each party state as authorizing the advanced practice
23 registered nurse to practice as an advanced practice registered nurse in each party state, under
24 a multistate licensure privilege, in the same role and population focus as the advanced practice
25 registered nurse is licensed in the home state. If an applicant does not qualify for a multistate
26 license, a single-state license may be issued by a home state.

27 (f) Issuance of an advanced practice registered nurse multistate license shall include
28 prescriptive authority for noncontrolled prescription drugs, unless the advanced practice
29 registered nurse was licensed by the home state prior to the home state's adoption of this compact
30 and has not previously held prescriptive authority.

31 (1) An advanced practice registered nurse granted prescriptive authority for noncontrolled
32 prescription drugs in the home state may exercise prescriptive authority for noncontrolled
33 prescription drugs in any remote state while exercising a multistate licensure privilege under an
34 advanced practice registered nurse multistate license; the advanced practice registered nurse
35 shall not be required to meet any additional eligibility requirements imposed by the remote state
36 in exercising prescriptive authority for noncontrolled prescription drugs.

37 (2) Prescriptive authority in the home state for an advanced practice registered nurse who
38 was not granted prescriptive authority at the time of initial licensure by the home state, prior to the
39 adoption of this compact, shall be determined under home state law.

40 (3) Prescriptive authority eligibility for an advanced practice registered nurse holding a
41 single-state license shall be determined under the law of the licensing state.

42 (g) For each state in which an advanced practice registered nurse seeks authority to

43 prescribe controlled substances, the advanced practice registered nurse shall satisfy all
44 requirements imposed by such state in granting and/or renewing such authority.

45 (h) An advanced practice registered nurse issued a multistate license is authorized to
46 assume responsibility and accountability for patient care independent of a supervisory or
47 collaborative relationship with a physician. This authority may be exercised in the home state and
48 in any remote state in which the advanced practice registered nurse exercises a multistate
49 licensure privilege. For an advanced practice registered nurse issued a single-state license in a
50 party state, the requirement for a supervisory or collaborative relationship with a physician shall
51 be determined under applicable party state law.

52 (i) All party states shall be authorized, in accordance with state due process laws, to take
53 adverse action against an advanced practice registered nurse's multistate licensure privilege such
54 as revocation, suspension, probation or any other action that affects an advanced practice
55 registered nurse's authorization to practice under a multistate licensure privilege, including cease
56 and desist actions. If a party state takes such action, it shall promptly notify the administrator of
57 the coordinated licensure information system. The administrator of the coordinated licensure
58 information system shall promptly notify the home state of any such actions by remote states.

59 (j) An advanced practice registered nurse practicing in a party state must comply with the
60 state practice laws of the state in which the client is located at the time service is provided.
61 Advanced practice registered nurse practice is not limited to patient care, but shall include all
62 advanced nursing practice as defined by the state practice laws of the party state in which the
63 client is located. Advanced practice registered nurse practice in a party state under a multistate
64 licensure privilege will subject the advanced practice registered nurse to the jurisdiction of the
65 licensing board, the courts, and the laws of the party state in which the client is located at the time
66 service is provided.

67 (k) This compact does not affect additional requirements imposed by states for advanced
68 practice registered nursing. However, a multistate licensure privilege to practice registered

69 nursing granted by a party state shall be recognized by other party states as satisfying any state
70 law requirement for registered nurse licensure as a precondition for authorization to practice as
71 an advanced practice registered nurse in that state.

72 (l) Individuals not residing in a party state shall continue to be able to apply for a party
73 state's single-state advanced practice registered nurse license as provided under the laws of each
74 party state. However, the single-state license granted to these individuals will not be recognized
75 as granting the privilege to practice as an advanced practice registered nurse in any other party
76 state.

§30-7F-4. Applications for advanced practice registered nurse licensure in a party state.

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

9 (b) An advanced practice registered nurse may hold a multistate advanced practice
10 registered nurse license, issued by the home state, in only one party state at a time.

11 (c) If an advanced practice registered nurse changes primary state of residence by moving
12 between two party states, the advanced practice registered nurse must apply for advanced
13 practice registered nurse licensure in the new home state, and the multistate license issued by
14 the prior home state shall be deactivated in accordance with applicable commission rules.

15 (1) The advanced practice registered nurse may apply for licensure in advance of a
16 change in primary state of residence.

17 (2) A multistate advanced practice registered nurse license shall not be issued by the new

18 home state until the advanced practice registered nurse provides satisfactory evidence of a
19 change in primary state of residence to the new home state and satisfies all applicable
20 requirements to obtain a multistate advanced practice registered nurse license from the new
21 home state.

22 (d) If an advanced practice registered nurse changes primary state of residence by moving
23 from a party state to a nonparty state, the advanced practice registered nurse multistate license
24 issued by the prior home state will convert to a single-state license, valid only in the former home
25 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 an advanced practice registered nurse's multistate
4 licensure privilege to practice within that party state.

5 (A) Only the home state shall have power to take adverse action against an advanced
6 practice registered nurse's 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 that occurred outside of the home state as it would if
9 such conduct had occurred within the home state. In so doing, the home state shall apply its own
10 state laws to determine appropriate action.

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

13 (3) Complete any pending investigations of an advanced practice registered nurse who
14 changes primary state of residence during the course of such investigations. The licensing board
15 shall also have the authority to take appropriate action and shall promptly report the conclusions
16 of such 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 party state
21 licensing board for the attendance and testimony of witnesses and/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 that court's practice and procedure in considering subpoenas issued in its own
24 proceedings. The issuing licensing board shall pay any witness fees, travel expenses, mileage
25 and other fees required by the service statutes of the state in which the witnesses and/or evidence
26 are located.

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

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

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

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

43 (c) Nothing in this compact shall override a party state's decision that participation in an

44 alternative program may be used in lieu of adverse action. The home state licensing board shall
45 deactivate the multistate licensure privilege under the multistate license of any advanced practice
46 registered nurse for the duration of the advanced practice registered nurse's participation in an
47 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 advanced practice registered nurses, licensed registered nurses and licensed practical/vocational
3 nurses. This system will include information on the licensure and disciplinary history of each
4 advanced practice registered nurse, as submitted by party states, to assist in the coordinated
5 administration of advanced practice registered nurse licensure and enforcement efforts.

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

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

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

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

21 (f) Any personally identifiable information obtained from the coordinated licensure

22 information system by a party state licensing board shall not be shared with nonparty states or
23 disclosed to other entities or individuals except to the extent permitted by the laws of the party
24 state contributing the information.

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

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

30 (1) Identifying information;

31 (2) Licensure data;

32 (3) Information related to alternative program participation information; and

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

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

**§30-7F-7. Establishment of the Interstate Commission of Advanced Practice Registered
Nurse Compact Administrators.**

1 (a) The party states hereby create and establish a joint public agency known as the
2 Interstate Commission of Advanced Practice Registered Nurse 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) (1) Each party state shall have and be limited to one administrator. The head of the

10 state licensing board or designee shall be the administrator of this compact for each party state.
11 Any administrator may be removed or suspended from office as provided by the law of the state
12 from which the administrator is appointed. Any vacancy occurring in the commission shall be filled
13 in accordance with the laws of the party state in which the vacancy exists.

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

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

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

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

25 (A) Noncompliance of a party state with its obligations under this compact;

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

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

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

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

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

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

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

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

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

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

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

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

52 (2) Providing reasonable standards and procedures:

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

54 (B) Governing any general or specific delegation of any authority or function of the
55 commission.

56 (3) Providing reasonable procedures for calling and conducting meetings of the
57 commission, ensuring reasonable advance notice of all meetings and providing an opportunity for
58 attendance of such meetings by interested parties, with enumerated exceptions designed to
59 protect the public's interest, the privacy of individuals, and proprietary information, including trade
60 secrets. The commission may meet in closed session only after a majority of the administrators
61 vote to close a meeting, in whole or in part. As soon as practicable, the commission must make

62 public a copy of the vote to close the meeting revealing the vote of each administrator, with no
63 proxy votes allowed;

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

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

70 (6) Providing a mechanism for winding up the operations of the commission and the
71 equitable disposition of any surplus funds that may exist after the termination of this compact after
72 the payment and/or reserving of all of its debts and obligations;

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

75 (e) The commission shall maintain its financial records in accordance with the bylaws; and

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

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

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

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

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

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

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

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

95 (7) To accept any and all appropriate donations, grants and gifts of money, equipment,
96 supplies, materials and services, and to receive, utilize and dispose of the same; provided that at
97 all times the commission shall strive to avoid any appearance of impropriety and/or conflict of
98 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 strive to 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 advanced practice registered

114 nurse licensure and practice.

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

117 (2) The commission may levy on and collect an annual assessment from each party state
118 to cover the cost of the operations and activities of the commission and its staff which must be in
119 a total amount sufficient to cover its annual budget as approved each year. The aggregate annual
120 assessment amount shall be allocated based upon a formula to be determined by the
121 commission, which shall promulgate a rule that is binding upon all party 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) (1) The administrators, officers, executive director, employees and representatives of
132 the commission shall be immune from suit and liability, either personally or in their official capacity,
133 for any claim for damage to or loss of property or personal injury or other civil liability caused by
134 or arising out of any actual or alleged act, error or omission that occurred, or that the person
135 against whom the claim is made had a reasonable basis for believing occurred, within the scope
136 of commission employment, duties or responsibilities; provided that nothing in this paragraph shall
137 be construed to protect any such person from suit and/or liability for any damage, loss, injury or
138 liability caused by the intentional, willful or wanton misconduct of that person.

139 (2) The commission shall defend any administrator, officer, executive director, employee

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

147 (3) The commission shall indemnify and hold harmless any administrator, officer,
148 executive director, employee or representative of the commission for the amount of any
149 settlement or judgment obtained against that person arising out of any actual or alleged act, error
150 or omission that occurred within the scope of commission employment, duties or responsibilities,
151 or that such person had a reasonable basis for believing occurred within the scope of commission
152 employment, duties or responsibilities, provided that the actual or alleged act, error or omission
153 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 (90) days after
42 the effective date of the rule. For the purposes of this provision, an emergency rule is one that
43 must 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 established by
47 federal 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) (1) Each party state shall enforce this compact and take all actions necessary and
2 appropriate to effectuate this compact's purposes and intent.

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

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

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

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

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

20 (3) Termination of membership in this compact shall be imposed only after all other means
21 of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be
22 given by the commission to the Governor of the defaulting state and to the executive officer of the
23 defaulting state's licensing board, the defaulting state's licensing board, and each of the party
24 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) (1) Upon request by a party state, the commission shall attempt to resolve disputes
36 related to the compact that arise among party states and between party and nonparty states.

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

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

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

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

46 (d) (1) The commission, in the reasonable exercise of its discretion, shall enforce the
47 provisions and rules of this compact.

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

54 (3) The remedies herein shall not be the exclusive remedies of the commission. The
55 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 come into limited effect at such time as this compact has been
2 enacted into law in ten party states for the sole purpose of establishing and convening the
3 commission to adopt rules relating to its operation and the advanced practice registered nurse

4 uniform licensure requirements.

5 (b) On the date of the commission's adoption of the advanced practice registered nurse
6 uniform licensure requirements, all remaining provisions of this compact, and rules adopted by
7 the commission, shall come into full force and effect in all party states.

8 (c) Any state that joins this compact subsequent to the commission's initial adoption of the
9 advanced practice registered nurse uniform licensure requirements shall be subject to all rules
10 that have been previously adopted by the commission.

11 (d) Any party state may withdraw from this compact by enacting a statute repealing the
12 same. A party state's withdrawal shall not take effect until six months after enactment of the
13 repealing statute.

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

17 (f) Nothing contained in this compact shall be construed to invalidate or prevent any
18 advanced practice registered nurse licensure agreement or other cooperative arrangement
19 between a party state and a nonparty state that does not conflict with the provisions of this
20 compact.

21 (g) This compact may be amended by the party states. No amendment to this compact
22 shall become effective and binding upon any party state until it is enacted into the laws of all party
23 states.

24 (h) Representatives of nonparty states to this compact shall be invited to participate in the
25 activities of the commission, on a nonvoting basis, prior to the adoption of this compact by all
26 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 enact the Advanced Practice Registered Nurse Compact.

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