

# HOUSE BILL NO. 4042

January 15, 2019, Introduced by Reps. Whiteford and Brann and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
by amending section 17201 (MCL 333.17201), as amended by 2016 PA  
499, and by adding sections 16190, 17225, and 17225a.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1        **Sec. 16190. (1) The Nurse Licensure Compact is enacted into**  
2        **law and entered into by this state as a party state with all other**  
3        **jurisdictions that legally join in the Compact, in the form**  
4        **substantially as follows:**

5

## NURSE LICENSURE COMPACT

## ARTICLE I

## Findings and Declaration of Purpose

## a. The party states find that:

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

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

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

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

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

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

## b. The general purposes of this Compact are to:

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

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

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

4. Promote compliance with the laws governing the practice of

1 nursing in each jurisdiction;

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

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

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

10

11 ARTICLE II

12 Definitions

13 As used in this Compact:

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

22 b. "Alternative program" means a non-disciplinary monitoring  
23 program approved by a licensing board.

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

29 d. "Current significant investigative information" means:

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

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

10          e. "Encumbrance" means a revocation or suspension of, or any  
11 limitation on, the full and unrestricted practice of nursing  
12 imposed by a licensing board.

13          f. "Home state" means the party state which is the nurse's  
14 primary state of residence.

15          g. "Licensing board" means a party state's regulatory body  
16 responsible for issuing nurse licenses.

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

22          i. "Multistate licensure privilege" means a legal  
23 authorization associated with a multistate license permitting the  
24 practice of nursing as either a registered nurse (RN) or LPN/VN in  
25 a remote state.

26          j. "Nurse" means RN or LPN/VN, as those terms are defined by  
27 each party state's practice laws.

28          k. "Party state" means any state that has adopted this  
29 Compact.

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

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

o. "State practice laws" means a party state's laws, rules and regulations that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing discipline. "State practice laws" do not include requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

## General Provisions and Jurisdiction

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

b. A state must implement procedures for considering the criminal history records of applicants for initial multistate license or licensure by endorsement. Such procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation

1 and the agency responsible for retaining that state's criminal  
2 records.

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

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

8 2. i. Has graduated or is eligible to graduate from a  
9 licensing board-approved RN or LPN/VN prelicensure education  
10 program; or

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

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

22 4. Has successfully passed an NCLEX-RN® or NCLEX-PN®  
23 Examination or recognized predecessor, as applicable;

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

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

1        7. Has not been convicted or found guilty, or has entered into  
2 an agreed disposition, of a felony offense under applicable state  
3 or federal criminal law;

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

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

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

10       11. Has a valid United States Social Security number.

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

21       e. A nurse practicing in a party state must comply with the  
22 state practice laws of the state in which the client is located at  
23 the time service is provided. The practice of nursing is not  
24 limited to patient care, but shall include all nursing practice as  
25 defined by the state practice laws of the party state in which the  
26 client is located. The practice of nursing in a party state under a  
27 multistate licensure privilege will subject a nurse to the  
28 jurisdiction of the licensing board, the courts and the laws of the  
29 party state in which the client is located at the time service is

1 provided.

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

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

14 1. A nurse, who changes primary state of residence after this  
15 Compact's effective date, must meet all applicable Article III.c.  
16 requirements to obtain a multistate license from a new home state.

17 2. A nurse who fails to satisfy the multistate licensure  
18 requirements in Article III.c. due to a disqualifying event  
19 occurring after this Compact's effective date shall be ineligible  
20 to retain or renew a multistate license, and the nurse's multistate  
21 license shall be revoked or deactivated in accordance with  
22 applicable rules adopted by the Interstate Commission of Nurse  
23 Licensure Compact Administrators ("Commission").  
24

#### 25 ARTICLE IV

##### 26 Applications for Licensure in a Party State

27 a. Upon application for a multistate license, the licensing  
28 board in the issuing party state shall ascertain, through the  
29 coordinated licensure information system, whether the applicant has



1 ever held, or is the holder of, a license issued by any other  
2 state, whether there are any encumbrances on any license or  
3 multistate licensure privilege held by the applicant, whether any  
4 adverse action has been taken against any license or multistate  
5 licensure privilege held by the applicant and whether the applicant  
6 is currently participating in an alternative program.

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

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

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

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

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

## 25 26 ARTICLE V

### 27 Additional Authorities Invested in Party State Licensing 28 Boards

29 a. In addition to the other powers conferred by state law, a

1 licensing board shall have the authority to:

2 1. Take adverse action against a nurse's multistate licensure  
3 privilege to practice within that party state.

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

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

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

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

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

1 other fees required by the service statutes of the state in which  
2 the witnesses or evidence are located.

3 5. Obtain and submit, for each nurse licensure applicant,  
4 fingerprint or other biometric-based information to the Federal  
5 Bureau of Investigation for criminal background checks, receive the  
6 results of the Federal Bureau of Investigation record search on  
7 criminal background checks and use the results in making licensure  
8 decisions.

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

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

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

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

29

## ARTICLE VI

## Coordinated Licensure Information System and Exchange of Information

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

b. The Commission, in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection and exchange of information under this Compact.

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

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

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

1 state.

2 f. Any personally identifiable information obtained from the  
3 coordinated licensure information system by a party state licensing  
4 board shall not be shared with non-party states or disclosed to  
5 other entities or individuals except to the extent permitted by the  
6 laws of the party state contributing the information.

7 g. Any information contributed to the coordinated licensure  
8 information system that is subsequently required to be expunged by  
9 the laws of the party state contributing that information shall  
10 also be expunged from the coordinated licensure information system.

11 h. The Compact administrator of each party state shall furnish  
12 a uniform data set to the Compact administrator of each other party  
13 state, which shall include, at a minimum:

- 14 1. Identifying information;  
15 2. Licensure data;  
16 3. Information related to alternative program participation;

17 and

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

20 i. The Compact administrator of a party state shall provide  
21 all investigative documents and information requested by another  
22 party state.

23

## 24 ARTICLE VII

25 Establishment of the Interstate Commission of Nurse Licensure  
26 Compact Administrators

27 a. The party states hereby create and establish a joint public  
28 entity known as the Interstate Commission of Nurse Licensure  
29 Compact Administrators.

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

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

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

10           b. Membership, Voting and Meetings

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

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

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

29           4. All meetings shall be open to the public, and public notice

1 of meetings shall be given in the same manner as required under the  
2 rulemaking provisions in Article VIII.

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

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

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

11 iii. Current, threatened or reasonably anticipated litigation;

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

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

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

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

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

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

26 x. Matters specifically exempted from disclosure by federal or  
27 state statute.

28 6. If a meeting, or portion of a meeting, is closed pursuant  
29 to this provision, the Commission's legal counsel or designee shall

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

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

- 15 1. Establishing the fiscal year of the Commission;
- 16 2. Providing reasonable standards and procedures:
  - 17 i. For the establishment and meetings of other committees; and
  - 18 ii. Governing any general or specific delegation of any  
19 authority or function of the Commission;
- 20 3. Providing reasonable procedures for calling and conducting  
21 meetings of the Commission, ensuring reasonable advance notice of  
22 all meetings and providing an opportunity for attendance of such  
23 meetings by interested parties, with enumerated exceptions designed  
24 to protect the public's interest, the privacy of individuals, and  
25 proprietary information, including trade secrets. The Commission  
26 may meet in closed session only after a majority of the  
27 administrators vote to close a meeting in whole or in part. As soon  
28 as practicable, the Commission must make public a copy of the vote  
29 to close the meeting revealing the vote of each administrator, with



1 no proxy votes allowed;

2 4. Establishing the titles, duties and authority and  
3 reasonable procedures for the election of the officers of the  
4 Commission;

5 5. Providing reasonable standards and procedures for the  
6 establishment of the personnel policies and programs of the  
7 Commission. Notwithstanding any civil service or other similar laws  
8 of any party state, the bylaws shall exclusively govern the  
9 personnel policies and programs of the Commission; and

10 6. Providing a mechanism for winding up the operations of the  
11 Commission and the equitable disposition of any surplus funds that  
12 may exist after the termination of this Compact after the payment  
13 or reserving of all of its debts and obligations;

14 d. The Commission shall publish its bylaws and rules, and any  
15 amendments thereto, in a convenient form on the website of the  
16 Commission.

17 e. The Commission shall maintain its financial records in  
18 accordance with the bylaws.

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

21 g. The Commission shall have the following powers:

22 1. To promulgate uniform rules to facilitate and coordinate  
23 implementation and administration of this Compact. The rules shall  
24 have the force and effect of law and shall be binding in all party  
25 states;

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

29 3. To purchase and maintain insurance and bonds;

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

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

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

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

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

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

26           10. To establish a budget and make expenditures;

27           11. To borrow money;

28           12. To appoint committees, including advisory committees  
29 comprised of administrators, state nursing regulators, state

1 legislators or their representatives, and consumer representatives,  
2 and other such interested persons;

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

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

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

9 h. Financing of the Commission

10 1. The Commission shall pay, or provide for the payment of,  
11 the reasonable expenses of its establishment, organization and  
12 ongoing activities.

13 2. The Commission may also levy on and collect an annual  
14 assessment from each party state to cover the cost of its  
15 operations, activities and staff in its annual budget as approved  
16 each year. The aggregate annual assessment amount, if any, shall be  
17 allocated based upon a formula to be determined by the Commission,  
18 which shall promulgate a rule that is binding upon all party  
19 states.

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

24 4. The Commission shall keep accurate accounts of all receipts  
25 and disbursements. The receipts and disbursements of the Commission  
26 shall be subject to the audit and accounting procedures established  
27 under its bylaws. However, all receipts and disbursements of funds  
28 handled by the Commission shall be audited yearly by a certified or  
29 licensed public accountant, and the report of the audit shall be

1 included in and become part of the annual report of the Commission.

2 i. Qualified Immunity, Defense and Indemnification

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

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

27 3. The Commission shall indemnify and hold harmless any  
28 administrator, officer, executive director, employee or  
29 representative of the Commission for the amount of any settlement

1 or judgment obtained against that person arising out of any actual  
 2 or alleged act, error or omission that occurred within the scope of  
 3 Commission employment, duties or responsibilities, or that such  
 4 person had a reasonable basis for believing occurred within the  
 5 scope of Commission employment, duties or responsibilities,  
 6 provided that the actual or alleged act, error or omission did not  
 7 result from the intentional, willful or wanton misconduct of that  
 8 person.

# 10 ARTICLE VIII

## 11 Rulemaking

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

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

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

23 1. On the website of the Commission; and

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

26 d. The notice of proposed rulemaking shall include:

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

29 2. The text of the proposed rule or amendment, and the reason

1 for the proposed rule;

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

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

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

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

12 g. The Commission shall publish the place, time and date of  
13 the scheduled public hearing.

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

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

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

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

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

1 rulemaking record and the full text of the rule.

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

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

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

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

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

27

## 28 ARTICLE IX

### 29 Oversight, Dispute Resolution and Enforcement

1           a. Oversight

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

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

12           b. Default, Technical Assistance and Termination

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

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

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

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

29           3. Termination of membership in this Compact shall be imposed



1 only after all other means of securing compliance have been  
2 exhausted. Notice of intent to suspend or terminate shall be given  
3 by the Commission to the governor of the defaulting state and to  
4 the executive officer of the defaulting state's licensing board and  
5 each of the party states.

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

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

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

20 c. Dispute Resolution

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

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

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

29 i. The party states may submit the issues in dispute to an

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

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

7 d. Enforcement

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

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

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

22  
23 ARTICLE X

24 Effective Date, Withdrawal and Amendment

25 a. This Compact shall become effective and binding on the  
26 earlier of the date of legislative enactment of this Compact into  
27 law by no less than twenty-six (26) states or December 31, 2018.  
28 All party states to this Compact, that also were parties to the  
29 prior Nurse Licensure Compact, superseded by this Compact, ("Prior

1 Compact"), shall be deemed to have withdrawn from said Prior  
2 Compact within six (6) months after the effective date of this  
3 Compact.

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

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

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

17 e. Nothing contained in this Compact shall be construed to  
18 invalidate or prevent any nurse licensure agreement or other  
19 cooperative arrangement between a party state and a non-party state  
20 that is made in accordance with the other provisions of this  
21 Compact.

22 f. This Compact may be amended by the party states. No  
23 amendment to this Compact shall become effective and binding upon  
24 the party states unless and until it is enacted into the laws of  
25 all party states.

26 g. Representatives of non-party states to this Compact shall  
27 be invited to participate in the activities of the Commission, on a  
28 nonvoting basis, prior to the adoption of this Compact by all  
29 states.

ARTICLE XI

Construction and Severability

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

(2) Subsection (1) shall be known as the "Nurse Licensure Compact".

Sec. 17201. (1) As used in this part:

(a) "Advanced practice registered nurse" or "a.p.r.n." means a registered professional nurse who has been granted a specialty certification under section 17210 in 1 of the following health profession specialty fields:

(i) Nurse midwifery.

(ii) Nurse practitioner.

(iii) Clinical nurse specialist.

(b) "Nurse licensure compact" means the nurse licensure compact as enacted in section 16190.

(c) ~~(b)~~ "Physician" means a physician who is licensed under

1 part 170 or part 175.

2       **(d)** ~~(e)~~ "Practice of nursing" means the systematic application  
3 of substantial specialized knowledge and skill, derived from the  
4 biological, physical, and behavioral sciences, to the care,  
5 treatment, counsel, and health teaching of individuals who are  
6 experiencing changes in the normal health processes or who require  
7 assistance in the maintenance of health and the prevention or  
8 management of illness, injury, or disability.

9       **(e)** ~~(d)~~ "Practice of nursing as a licensed practical nurse" or  
10 "l.p.n." means the practice of nursing based on less comprehensive  
11 knowledge and skill than that required of a registered professional  
12 nurse and performed under the supervision of a registered  
13 professional nurse, physician, or dentist.

14       **(f)** ~~(e)~~ "Registered professional nurse" or "r.n." means an  
15 individual who is licensed under this ~~part~~ **article or authorized**  
16 **under section 17225** to engage in the practice of nursing ~~which~~ **and**  
17 **whose** scope of practice includes the teaching, direction, and  
18 supervision of less skilled personnel in the performance of  
19 delegated nursing activities.

20       (2) In addition to the definitions in this part, article 1  
21 contains general definitions and principles of construction  
22 applicable to all articles in the code and part 161 contains  
23 definitions applicable to this part.

24       **Sec. 17225. (1) An individual who holds a multistate license**  
25 **to practice registered nursing under the nurse licensure compact is**  
26 **authorized to engage in the practice of nursing under this article.**

27       **(2) For purposes of this article, including the obligations of**  
28 **an individual who is licensed as a registered professional nurse,**  
29 **an individual who holds a multistate license to practice registered**

nursing under the nurse licensure compact is considered a  
registered professional nurse who is licensed under this part.

Sec. 17225a. (1) An individual who holds a multistate license  
to practice licensed practical/vocational nursing under the nurse  
licensure compact is authorized to engage in the practice of  
nursing as a licensed practical nurse under this article.

(2) For purposes of this article, including the obligations of  
an individual who is licensed as a licensed practical nurse, an  
individual who holds a multistate license to practice licensed  
practical/vocational nursing under the nurse licensure compact is  
considered a licensed practical nurse who is licensed under this  
part.

Enacting section 1. This amendatory act takes effect 90 days  
after the date it is enacted into law.