

45:11A-9 to 45:11A-14
LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2019 **CHAPTER:** 172

NJSA: 45:11A-9 to 45:11A-14 (Enters New Jersey in enhanced multistate Nurse Licensure Compact.)

BILL NO: S954/1699 (Substituted for A1597)

SPONSOR(S) Joseph F. Vitale and others

DATE INTRODUCED: 1/16/2018

COMMITTEE: **ASSEMBLY:** Appropriations

SENATE: Health, Human Services & Senior Citizens
Budget & Appropriations

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** 5/23/2019

SENATE: 2/21/2019

DATE OF APPROVAL: 7/19/2019

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL

(Senate Committee Substitute (First Reprint) enacted) Yes

S954/1699

INTRODUCED BILL S954: (Sponsors Statement begins page 18) Yes

INTRODUCED BILL S1699: (Sponsors Statement begins page 10) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes Appropriations

SENATE: Yes Health, Hum. Serv. & Senior Cit.
Budget & Appropriations

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, **may possibly** be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes 10/3/2018
2/28/2019

A1597

INTRODUCED BILL A1597: (Sponsors Statement begins page 19) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes Health & Senior Services
Appropriations

SENATE: No

(continued)

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, **may possibly** be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

REPORTS: No

HEARINGS: Yes

Committee meeting of Senate Legislative Oversight Committee : the Committee will receive testimony from invited guests regarding issues with the New Jersey Board of Nursing, including staffing, oversight, and a licensing backlog [October 5, 2017 Trenton, New Jersey]
Call number 974.90 N974, 2017
Available online at <http://hdl.handle.net/10929/44556>

NEWSPAPER ARTICLES: Yes

"NJ nurses able to practice outside state borders under newly signed law," NJBIZ, July 22, 2019

RWH/CL

P.L. 2019, CHAPTER 172, *approved July 19, 2019*
Senate Committee Substitute (*First Reprint*) for
Senate, Nos. 954 and 1699

1 **AN ACT** concerning the enhanced multistate Nurse Licensure
2 Compact and supplementing Title 45 of the Revised Statutes.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. The State of New Jersey enacts and enters into the Nurse
8 Licensure Compact with all other jurisdictions that legally join in the
9 compact in the form substantially as follows:

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11 **ARTICLE I: Findings and Declaration of Purpose**

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13 a. The party states find that:

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

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

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

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

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

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

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

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

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

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

37 4. Promote compliance with the laws governing the practice of

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SBA committee amendments adopted February 7, 2019.

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 which the
4 patient is located at the time care is rendered through the mutual
5 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 meet
9 uniform licensure requirements.

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ARTICLE II: Definitions

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As used in this Compact:

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

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b. “Alternative program” means a non-disciplinary monitoring
program approved by a licensing board.

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d. “Current significant investigative information” means:

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

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2. Investigative information that indicates that the nurse represents
an immediate threat to public health and safety regardless of whether
the nurse has been notified and had an opportunity to respond ¹; or

3. Any information concerning a nurse reported to a licensing
board by a health care entity, health care professional, or any other
person, which indicates that the nurse demonstrated an impairment,
gross incompetence, or unprofessional conduct that would present an
imminent danger to a patient or the public health, safety, or welfare¹ .

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e. “Encumbrance” means a revocation or suspension of, or any
limitation on, the full and unrestricted practice of nursing imposed by a
licensing board.

f. “Home state” means the party state which is the nurse’s primary
state of residence.

- 1 g. “Licensing board” means a party state’s regulatory body
2 responsible for issuing nurse licenses.
- 3 h. “Multistate license” means a license to practice as a registered
4 nurse (RN) or as a licensed practical/vocational nurse (LPN/VN), which
5 is issued by a home state licensing board, and which authorizes the
6 licensed nurse to practice in all party states under a multistate licensure
7 privilege.
- 8 i. “Multistate licensure privilege” means a legal authorization
9 associated with a multistate license permitting the practice of nursing
10 as either a registered nurse (RN) or a licensed practical/vocational nurse
11 (LPN/VN) in a remote state.
- 12 j. “Nurse” means RN or LPN/VN, as those terms are defined by
13 each party state’s practice laws.
- 14 k. “Party state” means any state that has adopted this Compact.
- 15 l. “Remote state” means a party state, other than the home state.
- 16 m. “Single-state license” means a nurse license issued by a party
17 state that authorizes practice only within the issuing state and does not
18 include a multistate licensure privilege to practice in any other party
19 state.
- 20 n. “State” means a state, territory or possession of the United
21 States and the District of Columbia.
- 22 o. “State practice laws” means a party state’s laws, rules and
23 regulations that govern the practice of nursing, define the scope of
24 nursing practice, and create the methods and grounds for imposing
25 discipline. “State practice laws” do not include requirements necessary
26 to obtain and retain a license, except for qualifications or requirements
27 of the home state.

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ARTICLE III: General Provisions and Jurisdiction

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- 31 a. A multistate license to practice registered or licensed
32 practical/vocational nursing issued by a home state to a resident in that
33 state will be recognized by each party state as authorizing a nurse to
34 practice as a registered nurse (RN) or as a licensed practical/vocational
35 nurse (LPN/VN), under a multistate licensure privilege, in each party
36 state.
- 37 b. A state must implement procedures for considering the criminal
38 history records of applicants for an initial multistate license or licensure
39 by endorsement. Such procedures shall include the submission of
40 fingerprints or other biometric-based information by applicants for the
41 purpose of obtaining an applicant’s criminal history record information
42 from the Federal Bureau of Investigation and the agency responsible for
43 retaining that state’s criminal records.
- 44 c. Each party state shall require its licensing board to authorize an
45 applicant to obtain or retain a multistate license in the home state only
46 if the applicant:
- 47 1. Meets the home state’s qualifications for licensure or renewal of

- 1 licensure, and complies with all other applicable state laws;
- 2 2. i. Has graduated or is eligible to graduate from a licensing
3 board-approved RN or LPN/VN prelicensure education program; or
4 ii. Has graduated from a foreign RN or LPN/VN prelicensure
5 education program that has been: (a) approved by the authorized
6 accrediting body in the applicable country, and (b) verified by an
7 independent credentials review agency to be comparable to a licensing
8 board-approved prelicensure education program;
- 9 3. Has, if a graduate of a foreign prelicensure education program
10 not taught in English or if English is not the individual's native
11 language, successfully passed an English proficiency examination that
12 includes the components of reading, speaking, writing and listening;
- 13 4. Has successfully passed an NCLEX-RN or NCLEX-PN
14 Examination or recognized predecessor, as applicable;
- 15 5. Is eligible for or holds an active, unencumbered license;
- 16 6. Has submitted, in connection with an application for initial
17 licensure or licensure by endorsement, fingerprints or other biometric
18 data for the purpose of obtaining criminal history record information
19 from the Federal Bureau of Investigation and the agency responsible for
20 retaining that state's criminal records;
- 21 7. Has not been convicted or found guilty, or has entered into an
22 agreed disposition, of a felony offense under applicable state or federal
23 criminal law;
- 24 8. Has not been convicted or found guilty, or has entered into an
25 agreed disposition, of a misdemeanor offense related to the practice of
26 nursing as determined on a case-by-case basis;
- 27 9. Is not currently enrolled in an alternative program;
- 28 10. Is subject to self-disclosure requirements regarding current
29 participation in an alternative program; and
- 30 11. Has a valid United States Social Security number.
- 31 d. All party states shall be authorized, in accordance with existing
32 state due process law, to take adverse action against a nurse's
33 multistate licensure privilege such as revocation, suspension,
34 probation or any other action that affects a nurse's authorization to
35 practice under a multistate licensure privilege, including cease and
36 desist actions. If a party state takes such action, it shall promptly notify
37 the administrator of the coordinated licensure information system. The
38 administrator of the coordinated licensure information system shall
39 promptly notify the home state of any such actions by remote states.
- 40 e. A nurse practicing in a party state must comply with the state
41 practice laws of the state in which the client is located at the time
42 service is provided. The practice of nursing is not limited to patient
43 care, but shall include all nursing practice as defined by the state
44 practice laws of the party state in which the client is located. The
45 practice of nursing in a party state under a multistate licensure privilege
46 will subject a nurse to the jurisdiction of the licensing board, the courts
47 and the laws of the party state in which the client is located at the time

1 service is provided.

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

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

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

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

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23 ARTICLE IV: Applications for Licensure in a Party State

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

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

36 c. If a nurse changes primary state of residence by moving
37 between two party states, the nurse must apply for licensure in the new
38 home state, and the multistate license issued by the prior home state
39 will be deactivated in accordance with applicable rules adopted by the
40 Commission.

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

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

47 d. If a nurse changes primary state of residence by moving from a

1 party state to a non-party state, the multistate license issued by the
2 prior home state will convert to a single-state license, valid only in the
3 former home state.

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5 ARTICLE V: Additional Authorities Invested in Party State Licensing
6 Boards

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

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

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

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

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

21 3. Complete any pending investigations of a nurse who changes
22 primary state of residence during the course of such investigations. The
23 licensing board shall also have the authority to take appropriate
24 action(s) and shall promptly report the conclusions of such
25 investigations to the administrator of the coordinated licensure
26 information system. The administrator of the coordinated licensure
27 information system shall promptly notify the new home state of any
28 such actions.

29 4. Issue subpoenas for both hearings and investigations that
30 require the attendance and testimony of witnesses, as well as the
31 production of evidence. Subpoenas issued by a licensing board in a
32 party state for the attendance and testimony of witnesses or the
33 production of evidence from another party state shall be enforced in the
34 latter state by any court of competent jurisdiction, according to the
35 practice and procedure of that court applicable to subpoenas issued in
36 proceedings pending before it. The issuing authority shall pay any
37 witness fees, travel expenses, mileage and other fees required by the
38 service statutes of the state in which the witnesses or evidence are
39 located.

40 5. Obtain and submit, for each nurse licensure applicant,
41 fingerprint or other biometric-based information to the Federal Bureau
42 of Investigation for criminal background checks, receive the results of
43 the Federal Bureau of Investigation record search on criminal
44 background checks and use the results in making licensure decisions.

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

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

4 b. If adverse action is taken by the home state against a nurse's
5 multistate license, the nurse's multistate licensure privilege to practice
6 in all other party states shall be deactivated until all encumbrances have
7 been removed from the multistate license. All home state disciplinary
8 orders that impose adverse action against a nurse's multistate license
9 shall include a statement that the nurse's multistate licensure privilege
10 is deactivated in all party states during the pendency of the order.

11 c. Nothing in this Compact shall override a party state's decision
12 that participation in an alternative program may be used in lieu of
13 adverse action. The home state licensing board shall deactivate the
14 multistate licensure privilege under the multistate license of any nurse
15 for the duration of the nurse's participation in an alternative program.
16

17 ARTICLE VI: Coordinated Licensure Information System and
18 Exchange of Information
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20 a. All party states shall participate in a coordinated licensure
21 information system of all licensed registered nurses (RNs) and licensed
22 practical/vocational nurses (LPNs/VNs). This system will include
23 information on the licensure and disciplinary history of each nurse, as
24 submitted by party states, to assist in the coordination of nurse licensure
25 and enforcement efforts.

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

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

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

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

45 f. Any personally identifiable information obtained from the
46 coordinated licensure information system by a party state licensing
47 board shall not be shared with non-party states or disclosed to other

- 1 entities or individuals except to the extent permitted by the laws of the
2 party state contributing the information.
- 3 g. Any information contributed to the coordinated licensure
4 information system that is subsequently required to be expunged by the
5 laws of the party state contributing that information shall also be
6 expunged from the coordinated licensure information system.
- 7 h. The Compact administrator of each party state shall furnish a
8 uniform data set to the Compact administrator of each other party state,
9 which shall include, at a minimum:
- 10 1. Identifying information;
 - 11 2. Licensure data;
 - 12 3. Information related to alternative program participation; and
 - 13 4. Other information that may facilitate the administration of this
14 Compact, as determined by Commission rules.
- 15 i. The Compact administrator of a party state shall provide all
16 investigative documents and information requested by another party
17 state.

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19 ARTICLE VII: Establishment of the Interstate Commission of Nurse
20 Licensure Compact Administrators

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- 22 a. The party states hereby create and establish a joint public entity
23 known as the Interstate Commission of Nurse Licensure Compact
24 Administrators.
- 25 1. The Commission is an instrumentality of the party states.
 - 26 2. Venue is proper, and judicial proceedings by or against the
27 Commission shall be brought solely and exclusively, in a court of
28 competent jurisdiction where the principal office of the Commission is
29 located. The Commission may waive venue and jurisdictional
30 defenses to the extent it adopts or consents to participate in alternative
31 dispute resolution proceedings.
 - 32 3. Nothing in this Compact shall be construed to be a waiver of
33 sovereign immunity.
- 34 b. Membership, Voting and Meetings
- 35 1. Each party state shall have and be limited to one administrator.
36 The head of the state licensing board or designee shall be the
37 administrator of this Compact for each party state. Any administrator
38 may be removed or suspended from office as provided by the law of the
39 state from which the Administrator is appointed. Any vacancy
40 occurring in the Commission shall be filled in accordance with the laws
41 of the party state in which the vacancy exists.
 - 42 2. Each administrator shall be entitled to one (1) vote with regard
43 to the promulgation of rules and creation of bylaws and shall otherwise
44 have an opportunity to participate in the business and affairs of the
45 Commission. An administrator shall vote in person or by such other
46 means as provided in the bylaws. The bylaws may provide for an
47 administrator's participation in meetings by telephone or other means of

1 communication.

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

5 4. All meetings shall be open to the public, and public notice of
6 meetings shall be given in the same manner as required under the
7 rulemaking provisions in Article VIII.

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

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

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

16 iii. Current, threatened or reasonably anticipated litigation;

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

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

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

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

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

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

30 x. Matters specifically exempted from disclosure by federal or
31 state statute.

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

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

47 1. Establishing the fiscal year of the Commission;

- 1 2. Providing reasonable standards and procedures:
- 2 i. For the establishment and meetings of other committees; and
- 3 ii. Governing any general or specific delegation of any authority or
- 4 function of the Commission;
- 5 3. Providing reasonable procedures for calling and conducting
- 6 meetings of the Commission, ensuring reasonable advance notice of all
- 7 meetings and providing an opportunity for attendance of such meetings
- 8 by interested parties, with enumerated exceptions designed to protect
- 9 the public's interest, the privacy of individuals, and proprietary
- 10 information, including trade secrets. The Commission may meet in
- 11 closed session only after a majority of the administrators vote to close a
- 12 meeting in whole or in part. As soon as practicable, the Commission
- 13 must make public a copy of the vote to close the meeting revealing the
- 14 vote of each administrator, with no proxy votes allowed;
- 15 4. Establishing the titles, duties and authority and reasonable
- 16 procedures for the election of the officers of the Commission;
- 17 5. Providing reasonable standards and procedures for the
- 18 establishment of the personnel policies and programs of the
- 19 Commission. Notwithstanding any civil service or other similar laws
- 20 of any party state, the bylaws shall exclusively govern the personnel
- 21 policies and programs of the Commission; and
- 22 6. Providing a mechanism for winding up the operations of the
- 23 Commission and the equitable disposition of any surplus funds that
- 24 may exist after the termination of this Compact after the payment or
- 25 reserving of all of its debts and obligations;
- 26 d. The Commission shall publish its bylaws and rules, and any
- 27 amendments thereto, in a convenient form on the website of the
- 28 Commission.
- 29 e. The Commission shall maintain its financial records in
- 30 accordance with the bylaws.
- 31 f. The Commission shall meet and take such actions as are
- 32 consistent with the provisions of this Compact and the bylaws.
- 33 g. The Commission shall have the following powers:
- 34 1. To promulgate uniform rules to facilitate and coordinate
- 35 implementation and administration of this Compact. The rules shall
- 36 have the force and effect of law and shall be binding in all party states;
- 37 2. To bring and prosecute legal proceedings or actions in the name
- 38 of the Commission, provided that the standing of any licensing board to
- 39 sue or be sued under applicable law shall not be affected;
- 40 3. To purchase and maintain insurance and bonds;
- 41 4. To borrow, accept or contract for services of personnel,
- 42 including, but not limited to, employees of a party state or nonprofit
- 43 organizations;
- 44 5. To cooperate with other organizations that administer state
- 45 compacts related to the regulation of nursing, including but not limited
- 46 to sharing administrative or staff expenses, office space or other
- 47 resources;

- 1 6. To hire employees, elect or appoint officers, fix compensation,
2 define duties, grant such individuals appropriate authority to carry out
3 the purposes of this Compact, and to establish the Commission's
4 personnel policies and programs relating to conflicts of interest,
5 qualifications of personnel and other related personnel matters;
- 6 7. To accept any and all appropriate donations, grants and gifts of
7 money, equipment, supplies, materials and services, and to receive,
8 utilize and dispose of the same; provided that at all times the
9 Commission shall avoid any appearance of impropriety or conflict of
10 interest;
- 11 8. To lease, purchase, accept appropriate gifts or donations of, or
12 otherwise to own, hold, improve or use, any property, whether real,
13 personal or mixed; provided that at all times the Commission shall
14 avoid any appearance of impropriety;
- 15 9. To sell, convey, mortgage, pledge, lease, exchange, abandon or
16 otherwise dispose of any property, whether real, personal or mixed;
- 17 10. To establish a budget and make expenditures;
- 18 11. To borrow money;
- 19 12. To appoint committees, including advisory committees
20 comprised of administrators, state nursing regulators, state legislators or
21 their representatives, and consumer representatives, and other such
22 interested persons;
- 23 13. To provide and receive information from, and to cooperate with,
24 law enforcement agencies;
- 25 14. To adopt and use an official seal; and
- 26 15. To perform such other functions as may be necessary or
27 appropriate to achieve the purposes of this Compact consistent with the
28 state regulation of nurse licensure and practice.
- 29 h. Financing of the Commission
- 30 1. The Commission shall pay, or provide for the payment of, the
31 reasonable expenses of its establishment, organization and ongoing
32 activities.
- 33 2. The Commission may also levy on and collect an annual
34 assessment from each party state to cover the cost of its operations,
35 activities and staff in its annual budget as approved each year. The
36 aggregate annual assessment amount, if any, shall be allocated based
37 upon a formula to be determined by the Commission, which shall
38 promulgate a rule that is binding upon all party states.
- 39 3. The Commission shall not incur obligations of any kind prior to
40 securing the funds adequate to meet the same; nor shall the
41 Commission pledge the credit of any of the party states, except by, and
42 with the authority of, such party state.
- 43 4. The Commission shall keep accurate accounts of all receipts and
44 disbursements. The receipts and disbursements of the Commission
45 shall be subject to the audit and accounting procedures established
46 under its bylaws. However, all receipts and disbursements of funds
47 handled by the Commission shall be audited yearly by a certified or

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

3 i. Qualified Immunity, Defense and Indemnification

4 1. The administrators, officers, executive director, employees and
5 representatives of the Commission shall be immune from suit and
6 liability, either personally or in their official capacity, for any claim for
7 damage to or loss of property or personal injury or other civil liability
8 caused by or arising out of any actual or alleged act, error or omission
9 that occurred, or that the person against whom the claim is made had a
10 reasonable basis for believing occurred, within the scope of
11 Commission employment, duties or responsibilities; provided that
12 nothing in this paragraph shall be construed to protect any such person
13 from suit or liability for any damage, loss, injury or liability caused by
14 the intentional, 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 actual or
18 alleged act, error or omission that occurred within the scope of
19 Commission employment, duties or responsibilities, or that the person
20 against whom the claim is made had a reasonable basis for believing
21 occurred within the scope of Commission employment, duties or
22 responsibilities; provided that nothing herein shall be construed to
23 prohibit that person from retaining his or her own counsel; and
24 provided further that the actual or alleged act, error or omission did not
25 result from that person's intentional, willful or wanton misconduct.

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

36

37 ARTICLE VIII: Rulemaking

38

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

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

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

- 1 shall file a notice of proposed rulemaking:
- 2 1. On the website of the Commission; and
- 3 2. On the website of each licensing board or the publication in
- 4 which each state would otherwise publish proposed rules.
- 5 d. The notice of proposed rulemaking shall include:
- 6 1. The proposed time, date and location of the meeting in which
- 7 the rule will be considered and voted upon;
- 8 2. The text of the proposed rule or amendment, and the reason for
- 9 the proposed rule;
- 10 3. A request for comments on the proposed rule from any
- 11 interested person; and
- 12 4. The manner in which interested persons may submit notice to
- 13 the Commission of their intention to attend the public hearing and any
- 14 written comments.
- 15 e. Prior to adoption of a proposed rule, the Commission shall
- 16 allow persons to submit written data, facts, opinions and arguments,
- 17 which shall be made available to the public.
- 18 f. The Commission shall grant an opportunity for a public hearing
- 19 before it adopts a rule or amendment.
- 20 g. The Commission shall publish the place, time and date of the
- 21 scheduled public hearing.
- 22 1. Hearings shall be conducted in a manner providing each person
- 23 who wishes to comment a fair and reasonable opportunity to comment
- 24 orally or in writing. All hearings will be recorded, and a copy will be
- 25 made available upon request.
- 26 2. Nothing in this section shall be construed as requiring a separate
- 27 hearing on each rule. Rules may be grouped for the convenience of the
- 28 Commission at hearings required by this section.
- 29 h. If no one appears at the public hearing, the Commission may
- 30 proceed with promulgation of the proposed rule.
- 31 i. Following the scheduled hearing date, or by the close of
- 32 business on the scheduled hearing date if the hearing was not held, the
- 33 Commission shall consider all written and oral comments received.
- 34 j. The Commission shall, by majority vote of all administrators,
- 35 take final action on the proposed rule and shall determine the effective
- 36 date of the rule, if any, based on the rulemaking record and the full text
- 37 of the rule.
- 38 k. Upon determination that an emergency exists, the Commission
- 39 may consider and adopt an emergency rule without prior notice,
- 40 opportunity for comment or hearing, provided that the usual
- 41 rulemaking procedures provided in this Compact and in this section
- 42 shall be retroactively applied to the rule as soon as reasonably possible,
- 43 in no event later than ninety (90) days after the effective date of the
- 44 rule. For the purposes of this provision, an emergency rule is one that
- 45 must be adopted immediately in order to:
- 46 1. Meet an imminent threat to public health, safety or welfare;
- 47 2. Prevent a loss of Commission or party state funds; or

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

3 1. The Commission may direct revisions to a previously adopted
4 rule or amendment for purposes of correcting typographical errors,
5 errors in format, errors in consistency or grammatical errors. Public
6 notice of any revisions shall be posted on the website of the
7 Commission. The revision shall be subject to challenge by any person
8 for a period of thirty (30) days after posting. The revision may be
9 challenged only on grounds that the revision results in a material
10 change to a rule. A challenge shall be made in writing, and delivered
11 to the Commission, prior to the end of the notice period. If no
12 challenge is made, the revision will take effect without further action.
13 If the revision is challenged, the revision may not take effect without
14 the approval of the Commission.

15
16 ARTICLE IX: Oversight, Dispute Resolution and Enforcement

17
18 a. Oversight

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

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

28 b. Default, Technical Assistance and Termination

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

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

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

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

44 3. Termination of membership in this Compact shall be imposed
45 only after all other means of securing compliance have been exhausted.
46 Notice of intent to suspend or terminate shall be given by the
47 Commission to the governor of the defaulting state and to the executive

1 officer of the defaulting state's licensing board and each of the party
2 states.

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

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

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

16 c. Dispute Resolution

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

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

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

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

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

31 d. Enforcement

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

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

42 3. The remedies herein shall not be the exclusive remedies of the
43 Commission. The Commission may pursue any other remedies
44 available under federal or state law.

1 ARTICLE X: Effective Date, Withdrawal and Amendment

2

3 a. This Compact shall become effective and binding on the earlier
4 of the date of legislative enactment of this Compact into law by no less
5 than twenty-six (26) states or December 31, 2018. All party states to
6 this Compact, that also were parties to the prior Nurse Licensure
7 Compact, superseded by this Compact, (“Prior Compact”), shall be
8 deemed to have withdrawn from said Prior Compact within six (6)
9 months after the effective date of this Compact.

10 b. Each party state to this Compact shall continue to recognize a
11 nurse’s multistate licensure privilege to practice in that party state
12 issued under the Prior Compact until such party state has withdrawn
13 from the Prior Compact.

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

17 d. A party state’s withdrawal or termination shall not affect the
18 continuing requirement of the withdrawing or terminated state’s
19 licensing board to report adverse actions and significant investigations
20 occurring prior to the effective date of such withdrawal or termination.

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

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

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

32

33 ARTICLE XI: Construction and Severability

34

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

1 2. ¹**[a.** A State licensed nurse whose license is under suspension
2 or under probation by the New Jersey Board of Nursing, or who is
3 participating in an established treatment program which is an
4 alternative to disciplinary action, shall not practice in any other party
5 state during the term of the suspension, probation, or participation
6 without prior authorization from the other party state. The board may
7 revoke the State license of a nurse under suspension, probation, or
8 participation who practices nursing in another party state without prior
9 authorization from that state.

10 b. ¹**]** The multistate licensure privilege granted by this State
11 pursuant to the compact is subject to revocation or other disciplinary
12 action as the result of any disciplinary action imposed by a nurse's
13 home state.

14
15 3. This compact is intended to facilitate regulation of the
16 practice of nursing, and it does not relieve an employer from
17 complying with contractually or statutorily imposed obligations, or
18 with collectively bargained agreements.

19
20 ¹**[4.** a. This compact shall not abrogate or supersede any
21 provision in Title 45 of the Revised Statutes, or in any other title or
22 chapter of law applicable to the practice of nursing in this State.

23 b. Omissions in this compact shall not be supplied by
24 construction. In any instance of an omission from the compact, the
25 remaining provisions of Title 45 of the Revised Statutes or other
26 applicable statutory law, and any regulations adopted pursuant
27 thereto, shall control.]¹

28
29 ¹**[5.** This compact shall not abrogate or supersede any provision
30 in Title 34 of the Revised Statutes, or in any other title or chapter of
31 law applicable to labor practices, workforce strikes, or the
32 resolution of labor disputes in this State.]¹

33
34 ¹**[6.]** 4.¹ Any investigative or disciplinary powers conferred on
35 the Attorney General, the Director of the Division of Consumer
36 Affairs in the Department of Law and Public Safety, and the New
37 Jersey Board of Nursing under the provisions of P.L.1978, c.73
38 (C.45:1-14 et seq.) or other law, or under regulations adopted
39 pursuant thereto, shall not be interpreted as being limited in any
40 way by the terms of the compact, and shall be available in any
41 investigation of the conduct of, or disciplinary action undertaken
42 against, a remote state licensee practicing in New Jersey or a New
43 Jersey home state licensee.

44
45 ¹**[7.]** 5.¹ Nothing in Article VII of the compact shall be
46 deemed to waive or abrogate in any way any defense or immunity
47 of a public entity or public employee under the common law or

1 statutory law including, but not limited to, the "New Jersey Tort
2 Claims Act," N.J.S.59:1-1 et seq.

3
4 **¹[8.] 6.¹** a. One year after New Jersey becomes a party to the
5 compact, as provided by this act, the Attorney General shall submit
6 a report to the Governor and, pursuant to section 2 of P.L.1991,
7 c.164 (C.52:14-19.1), to the Legislature, evaluating whether the
8 State's continued participation in the compact is in the best interest
9 of the health, safety, and welfare of its citizens. At a minimum, the
10 report shall: (1) describe the beneficial and detrimental effects,
11 evidenced during the preceding year, which have resulted from the
12 State's participation in the compact; (2) describe any potential long-
13 term effects that have not yet been experienced, but which are likely
14 to result from the State's continued participation in the compact; (3)
15 indicate whether any other party state has changed its licensure
16 requirements in the preceding year to make them less stringent than
17 the requirements in this State; and (4) provide a recommendation as
18 to whether the State should remain a party to the compact.

19 b. The Legislature may withdraw this State from the compact if
20 the report submitted by the Attorney General, pursuant to
21 subsection a. of this section, indicates that another party state has
22 changed its licensure requirements to make them substantially lower
23 than the requirements of this State, or that withdrawal from the
24 compact is in the best interests of the health, safety, and welfare of
25 the citizens of this State.

26
27 **¹[9.] 7.¹** This act shall take effect immediately.

28
29
30 _____
31
32 Enters New Jersey in enhanced multistate Nurse Licensure
33 Compact.

SENATE, No. 954

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED JANUARY 16, 2018

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

Co-Sponsored by:

Senator Diegnan

SYNOPSIS

Enters New Jersey in multistate Nurse Licensure Compact.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/11/2018)

1 AN ACT concerning the multistate Nurse Licensure Compact and
2 supplementing Title 45 of the Revised Statutes.

3

4 BE IT ENACTED by the Senate and General Assembly of the
5 State of New Jersey:

6

7 1. The State of New Jersey enacts and enters into the Nurse
8 Licensure Compact with all other jurisdictions that legally join in
9 the compact in the form substantially as follows:

10

11 ARTICLE I: Findings and Declaration of Purpose

12

13 a. The party states find that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE II: Definitions

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As used in this Compact:

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

b. “Alternative program” means a non-disciplinary monitoring program approved by a licensing board.

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

d. “Current significant investigative information” means:

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

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

e. “Encumbrance” means a revocation or suspension of, or any limitation on, the full and unrestricted practice of nursing imposed by a licensing board.

f. “Home state” means the party state which is the nurse’s primary state of residence.

g. “Licensing board” means a party state’s regulatory body responsible for issuing nurse licenses.

h. “Multistate license” means a license to practice as a registered nurse (RN) or as a licensed practical/vocational nurse (LPN/VN), which is issued by a home state licensing board, and which authorizes the licensed nurse to practice in all party states under a multistate licensure privilege.

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

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

k. “Party state” means any state that has adopted this Compact.

l. “Remote state” means a party state, other than the home state.

m. “Single-state license” means a nurse license issued by a party state that authorizes practice only within the issuing state and does not

1 include a multistate licensure privilege to practice in any other party
2 state.

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

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

11

12 ARTICLE III: General Provisions and Jurisdiction

13

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

20 b. A state must implement procedures for considering the criminal
21 history records of applicants for an initial multistate license or licensure
22 by endorsement. Such procedures shall include the submission of
23 fingerprints or other biometric-based information by applicants for the
24 purpose of obtaining an applicant's criminal history record information
25 from the Federal Bureau of Investigation and the agency responsible for
26 retaining that state's criminal records.

27 c. Each party state shall require its licensing board to authorize an
28 applicant to obtain or retain a multistate license in the home state only
29 if the applicant:

30 1. Meets the home state's qualifications for licensure or renewal of
31 licensure, and complies with all other applicable state laws;

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

34 ii. Has graduated from a foreign RN or LPN/VN prelicensure
35 education program that has been: (a) approved by the authorized
36 accrediting body in the applicable country, and (b) verified by an
37 independent credentials review agency to be comparable to a licensing
38 board-approved prelicensure education program;

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

43 4. Has successfully passed an NCLEX-RN or NCLEX-PN
44 Examination or recognized predecessor, as applicable;

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

46 6. Has submitted, in connection with an application for initial
47 licensure or licensure by endorsement, fingerprints or other biometric
48 data for the purpose of obtaining criminal history record information
49 from the Federal Bureau of Investigation and the agency responsible for

- 1 retaining that state's criminal records;
- 2 7. Has not been convicted or found guilty, or has entered into an
3 agreed disposition, of a felony offense under applicable state or federal
4 criminal law;
- 5 8. Has not been convicted or found guilty, or has entered into an
6 agreed disposition, of a misdemeanor offense related to the practice of
7 nursing as determined on a case-by-case basis;
- 8 9. Is not currently enrolled in an alternative program;
- 9 10. Is subject to self-disclosure requirements regarding current
10 participation in an alternative program; and
- 11 11. Has a valid United States Social Security number.
- 12 d. All party states shall be authorized, in accordance with existing
13 state due process law, to take adverse action against a nurse's
14 multistate licensure privilege such as revocation, suspension,
15 probation or any other action that affects a nurse's authorization to
16 practice under a multistate licensure privilege, including cease and
17 desist actions. If a party state takes such action, it shall promptly notify
18 the administrator of the coordinated licensure information system. The
19 administrator of the coordinated licensure information system shall
20 promptly notify the home state of any such actions by remote states.
- 21 e. A nurse practicing in a party state must comply with the state
22 practice laws of the state in which the client is located at the time
23 service is provided. The practice of nursing is not limited to patient
24 care, but shall include all nursing practice as defined by the state
25 practice laws of the party state in which the client is located. The
26 practice of nursing in a party state under a multistate licensure privilege
27 will subject a nurse to the jurisdiction of the licensing board, the courts
28 and the laws of the party state in which the client is located at the time
29 service is provided.
- 30 f. Individuals not residing in a party state shall continue to be able
31 to apply for a party state's single-state license as provided under the
32 laws of each party state. However, the single-state license granted to
33 these individuals will not be recognized as granting the privilege to
34 practice nursing in any other party state. Nothing in this Compact shall
35 affect the requirements established by a party state for the issuance of a
36 single-state license.
- 37 g. Any nurse holding a home state multistate license, on the
38 effective date of this Compact, may retain and renew the multistate
39 license issued by the nurse's then-current home state, provided that:
- 40 1. A nurse, who changes primary state of residence after this
41 Compact's effective date, must meet all applicable Article III.c.
42 requirements to obtain a multistate license from a new home state.
- 43 2. A nurse who fails to satisfy the multistate licensure
44 requirements in Article III.c. due to a disqualifying event occurring
45 after this Compact's effective date shall be ineligible to retain or renew
46 a multistate license, and the nurse's multistate license shall be revoked
47 or deactivated in accordance with applicable rules adopted by the
48 Interstate Commission of Nurse Licensure Compact Administrators
49 ("Commission").

1 investigations to the administrator of the coordinated licensure
2 information system. The administrator of the coordinated licensure
3 information system shall promptly notify the new home state of any
4 such actions.

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

16 5. Obtain and submit, for each nurse licensure applicant,
17 fingerprint or other biometric-based information to the Federal Bureau
18 of Investigation for criminal background checks, receive the results of
19 the Federal Bureau of Investigation record search on criminal
20 background checks and use the results in making licensure decisions.

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

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

27 b. If adverse action is taken by the home state against a nurse's
28 multistate license, the nurse's multistate licensure privilege to practice
29 in all other party states shall be deactivated until all encumbrances have
30 been removed from the multistate license. All home state disciplinary
31 orders that impose adverse action against a nurse's multistate license
32 shall include a statement that the nurse's multistate licensure privilege
33 is deactivated in all party states during the pendency of the order.

34 c. Nothing in this Compact shall override a party state's decision
35 that participation in an alternative program may be used in lieu of
36 adverse action. The home state licensing board shall deactivate the
37 multistate licensure privilege under the multistate license of any nurse
38 for the duration of the nurse's participation in an alternative program.

39

40 ARTICLE VI: Coordinated Licensure Information System and
41 Exchange of Information

42

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

49 b. The Commission, in consultation with the administrator of the

1 coordinated licensure information system, shall formulate necessary
2 and proper procedures for the identification, collection and exchange of
3 information under this Compact.

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

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

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

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

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

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

- 31 1. Identifying information;
- 32 2. Licensure data;
- 33 3. Information related to alternative program participation; and
- 34 4. Other information that may facilitate the administration of this
35 Compact, as determined by Commission rules.

36 i. The Compact administrator of a party state shall provide all
37 investigative documents and information requested by another party
38 state.

39

40 ARTICLE VII: Establishment of the Interstate Commission of Nurse
41 Licensure Compact Administrators

42

43 a. The party states hereby create and establish a joint public entity
44 known as the Interstate Commission of Nurse Licensure Compact
45 Administrators.

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

47 2. Venue is proper, and judicial proceedings by or against the
48 Commission shall be brought solely and exclusively, in a court of
49 competent jurisdiction where the principal office of the Commission is

1 located. The Commission may waive venue and jurisdictional
2 defenses to the extent it adopts or consents to participate in alternative
3 dispute resolution proceedings.

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

6 b. Membership, Voting and Meetings

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

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

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

24 4. All meetings shall be open to the public, and public notice of
25 meetings shall be given in the same manner as required under the
26 rulemaking provisions in Article VIII.

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

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

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

35 iii. Current, threatened or reasonably anticipated litigation;

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

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

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

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

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

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

49 x. Matters specifically exempted from disclosure by federal or

1 state statute.

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

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

17 1. Establishing the fiscal year of the Commission;

18 2. Providing reasonable standards and procedures:

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

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

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

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

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

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

43 d. The Commission shall publish its bylaws and rules, and any
44 amendments thereto, in a convenient form on the website of the
45 Commission.

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

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

- 1 g. The Commission shall have the following powers:
- 2 1. To promulgate uniform rules to facilitate and coordinate
- 3 implementation and administration of this Compact. The rules shall
- 4 have the force and effect of law and shall be binding in all party states;
- 5 2. To bring and prosecute legal proceedings or actions in the name
- 6 of the Commission, provided that the standing of any licensing board to
- 7 sue or be sued under applicable law shall not be affected;
- 8 3. To purchase and maintain insurance and bonds;
- 9 4. To borrow, accept or contract for services of personnel,
- 10 including, but not limited to, employees of a party state or nonprofit
- 11 organizations;
- 12 5. To cooperate with other organizations that administer state
- 13 compacts related to the regulation of nursing, including but not limited
- 14 to sharing administrative or staff expenses, office space or other
- 15 resources;
- 16 6. To hire employees, elect or appoint officers, fix compensation,
- 17 define duties, grant such individuals appropriate authority to carry out
- 18 the purposes of this Compact, and to establish the Commission's
- 19 personnel policies and programs relating to conflicts of interest,
- 20 qualifications of personnel and other related personnel matters;
- 21 7. To accept any and all appropriate donations, grants and gifts of
- 22 money, equipment, supplies, materials and services, and to receive,
- 23 utilize and dispose of the same; provided that at all times the
- 24 Commission shall avoid any appearance of impropriety or conflict of
- 25 interest;
- 26 8. To lease, purchase, accept appropriate gifts or donations of, or
- 27 otherwise to own, hold, improve or use, any property, whether real,
- 28 personal or mixed; provided that at all times the Commission shall
- 29 avoid any appearance of impropriety;
- 30 9. To sell, convey, mortgage, pledge, lease, exchange, abandon or
- 31 otherwise dispose of any property, whether real, personal or mixed;
- 32 10. To establish a budget and make expenditures;
- 33 11. To borrow money;
- 34 12. To appoint committees, including advisory committees
- 35 comprised of administrators, state nursing regulators, state legislators or
- 36 their representatives, and consumer representatives, and other such
- 37 interested persons;
- 38 13. To provide and receive information from, and to cooperate
- 39 with, law enforcement agencies;
- 40 14. To adopt and use an official seal; and
- 41 15. To perform such other functions as may be necessary or
- 42 appropriate to achieve the purposes of this Compact consistent with the
- 43 state regulation of nurse licensure and practice.
- 44 h. Financing of the Commission
- 45 1. The Commission shall pay, or provide for the payment of, the
- 46 reasonable expenses of its establishment, organization and ongoing
- 47 activities.
- 48 2. The Commission may also levy on and collect an annual
- 49 assessment from each party state to cover the cost of its operations,

1 activities and staff in its annual budget as approved each year. The
2 aggregate annual assessment amount, if any, shall be allocated based
3 upon a formula to be determined by the Commission, which shall
4 promulgate a rule that is binding upon all party states.

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

9 4. The Commission shall keep accurate accounts of all receipts and
10 disbursements. The receipts and disbursements of the Commission
11 shall be subject to the audit and accounting procedures established
12 under its bylaws. However, all receipts and disbursements of funds
13 handled by the Commission shall be audited yearly by a certified or
14 licensed public accountant, and the report of the audit shall be included
15 in and become part of the annual report of the Commission.

16 i. Qualified Immunity, Defense and Indemnification

17 1. The administrators, officers, executive director, employees and
18 representatives of the Commission shall be immune from suit and
19 liability, either personally or in their official capacity, for any claim for
20 damage to or loss of property or personal injury or other civil liability
21 caused by or arising out of any actual or alleged act, error or omission
22 that occurred, or that the person against whom the claim is made had a
23 reasonable basis for believing occurred, within the scope of
24 Commission employment, duties or responsibilities; provided that
25 nothing in this paragraph shall be construed to protect any such person
26 from suit or liability for any damage, loss, injury or liability caused by
27 the intentional, willful or wanton misconduct of that person.

28 2. The Commission shall defend any administrator, officer,
29 executive director, employee or representative of the Commission in
30 any civil action seeking to impose liability arising out of any actual or
31 alleged act, error or omission that occurred within the scope of
32 Commission employment, duties or responsibilities, or that the person
33 against whom the claim is made had a reasonable basis for believing
34 occurred within the scope of Commission employment, duties or
35 responsibilities; provided that nothing herein shall be construed to
36 prohibit that person from retaining his or her own counsel; and
37 provided further that the actual or alleged act, error or omission did not
38 result from that person's intentional, willful or wanton misconduct.

39 3. The Commission shall indemnify and hold harmless any
40 administrator, officer, executive director, employee or representative of
41 the Commission for the amount of any settlement or judgment
42 obtained against that person arising out of any actual or alleged act,
43 error or omission that occurred within the scope of Commission
44 employment, duties or responsibilities, or that such person had a
45 reasonable basis for believing occurred within the scope of Commission
46 employment, duties or responsibilities, provided that the actual or
47 alleged act, error or omission did not result from the intentional, willful
48 or wanton misconduct of that person.

1 ARTICLE VIII: Rulemaking

2

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

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

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

- 14 1. On the website of the Commission; and
15 2. On the website of each licensing board or the publication in
16 which each state would otherwise publish proposed rules.

17 d. The notice of proposed rulemaking shall include:

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

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

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

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

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

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

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

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

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

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

43 i. Following the scheduled hearing date, or by the close of
44 business on the scheduled hearing date if the hearing was not held, the
45 Commission shall consider all written and oral comments received.

46 j. The Commission shall, by majority vote of all administrators,
47 take final action on the proposed rule and shall determine the effective
48 date of the rule, if any, based on the rulemaking record and the full text
49 of the rule.

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

- 9 1. Meet an imminent threat to public health, safety or welfare;
- 10 2. Prevent a loss of Commission or party state funds; or
- 11 3. Meet a deadline for the promulgation of an administrative rule
12 that is required by federal law or rule.

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

25
26 ARTICLE IX: Oversight, Dispute Resolution and Enforcement

27
28 a. Oversight

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

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

38 b. Default, Technical Assistance and Termination

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

- 42 i. Provide written notice to the defaulting state and other party
43 states of the nature of the default, the proposed means of curing the
44 default or any other action to be taken by the Commission; and
- 45 ii. Provide remedial training and specific technical assistance
46 regarding the default.

47 2. If a state in default fails to cure the default, the defaulting state's
48 membership in this Compact may be terminated upon an affirmative
49 vote of a majority of the administrators, and all rights, privileges and

1 benefits conferred by this Compact may be terminated on the effective
2 date of termination. A cure of the default does not relieve the
3 offending state of obligations or liabilities incurred during the period of
4 default.

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

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

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

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

24 c. Dispute Resolution

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

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

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

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

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

39 d. Enforcement

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

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

1 3. The remedies herein shall not be the exclusive remedies of the
2 Commission. The Commission may pursue any other remedies
3 available under federal or state law.
4

5 ARTICLE X: Effective Date, Withdrawal and Amendment
6

7 a. This Compact shall become effective and binding on the
8 earlier of the date of legislative enactment of this Compact into law by
9 no less than twenty-six (26) states or December 31, 2018. All party
10 states to this Compact, that also were parties to the prior Nurse
11 Licensure Compact, superseded by this Compact, (“Prior Compact”),
12 shall be deemed to have withdrawn from said Prior Compact within
13 six (6) months after the effective date of this Compact.

14 b. Each party state to this Compact shall continue to recognize a
15 nurse’s multistate licensure privilege to practice in that party state
16 issued under the Prior Compact until such party state has withdrawn
17 from the Prior Compact.

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

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

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

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

33 g. Representatives of non-party states to this Compact shall be
34 invited to participate in the activities of the Commission, on a
35 nonvoting basis, prior to the adoption of this Compact by all states.
36

37 ARTICLE XI: Construction and Severability
38

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

1 state affected as to all severable matters.

2

3 2. a. A State licensed nurse whose license is under suspension
4 or under probation by the New Jersey Board of Nursing, or who is
5 participating in an established treatment program which is an
6 alternative to disciplinary action, shall not practice in any other
7 party state during the term of the suspension, probation, or
8 participation without prior authorization from the other party state.
9 The board may revoke the State license of a nurse under suspension,
10 probation, or participation who practices nursing in another party
11 state without prior authorization from that state.

12 b. The multistate licensure privilege granted by this State
13 pursuant to the compact is subject to revocation or other
14 disciplinary action as the result of any disciplinary action imposed
15 by a nurse's home state.

16

17 3. This compact is intended to facilitate regulation of the
18 practice of nursing, and it does not relieve an employer from
19 complying with contractually or statutorily imposed obligations, or
20 with collectively bargained agreements.

21

22 4. a. This compact shall not abrogate or supersede any
23 provision in Title 45 of the Revised Statutes, or in any other title or
24 chapter of law applicable to the practice of nursing in this State.

25 b. If there is an irreconcilable conflict between this compact
26 and chapter 11 of Title 45 of the Revised Statutes, the compact shall
27 control.

28 c. Omissions in this compact shall not be supplied by
29 construction. In any instance of an omission from the compact, the
30 remaining provisions of Title 45 of the Revised Statutes or other
31 applicable statutory law, and any regulations adopted pursuant
32 thereto, shall control.

33

34 5. This compact shall not abrogate or supersede any provision
35 in Title 34 of the Revised Statutes, or in any other title or chapter of
36 law applicable to labor practices, workforce strikes, or the
37 resolution of labor disputes in this State.

38

39 6. Any investigative or disciplinary powers conferred on the
40 Attorney General, the Director of the Division of Consumer Affairs
41 in the Department of Law and Public Safety, and the New Jersey
42 Board of Nursing under the provisions of P.L.1978, c.73 (C.45:1-14
43 et seq.) or other law, or under regulations adopted pursuant thereto,
44 shall not be interpreted as being limited in any way by the terms of
45 the compact, and shall be available in any investigation of the
46 conduct of, or disciplinary action undertaken against, a remote state
47 licensee practicing in New Jersey or a New Jersey home state
48 licensee.

1 7. Nothing in Article VII of the compact shall be deemed to
2 waive or abrogate in any way any defense or immunity of a public
3 entity or public employee under the common law or statutory law
4 including, but not limited to, the "New Jersey Tort Claims Act,"
5 N.J.S.59:1-1 et seq.

6
7 8. a. One year after New Jersey becomes a party to the
8 compact, as provided by this act, the Attorney General shall submit
9 a report to the Governor and, pursuant to section 2 of P.L.1991,
10 c.164 (C.52:14-19.1), to the Legislature, evaluating whether the
11 State's continued participation in the compact is in the best interest
12 of the health, safety, and welfare of its citizens. At a minimum, the
13 report shall: (1) describe the beneficial and detrimental effects,
14 evidenced during the preceding year, which have resulted from the
15 State's participation in the compact; (2) describe any potential long-
16 term effects that have not yet been experienced, but which are likely
17 to result from the State's continued participation in the compact; (3)
18 indicate whether any other party state has changed its licensure
19 requirements in the preceding year to make them less stringent than
20 the requirements in this State; and (4) provide a recommendation as
21 to whether the State should remain a party to the compact.

22 b. The Legislature may withdraw this State from the compact if
23 the report submitted by the Attorney General, pursuant to
24 subsection a. of this section, indicates that another party state has
25 changed its licensure requirements to make them substantially lower
26 than the requirements of this State, or that withdrawal from the
27 compact is in the best interests of the health, safety, and welfare of
28 the citizens of this State.

29
30 9. This act shall take effect immediately.

31

32

33

STATEMENT

34

35 This bill would enter New Jersey in the Nurse Licensure
36 Compact (NLC) – a multistate compact that establishes a mutual
37 recognition system for the licensure of registered professional
38 nurses and licensed practical nurses. Under a mutual recognition
39 system, a nurse only needs to obtain one license from the nurse's
40 state of residence in order to be permitted to practice nursing in any
41 other state that is a party to the compact, as long as the nurse
42 complies with the state practice laws of the state in which the
43 patient is located at the time that care is rendered. Currently, a nurse
44 is required to be licensed in, and by, each state in which the nurse
45 chooses to practice.

46 Under the NLC, a nurse who applies for licensure would be
47 required to meet the qualifications for licensure and license renewal
48 that have been established in the nurse's state of residence. While a
49 nurse may be licensed in any state or states that are not parties to

1 the compact, a nurse may only be licensed in one state that is a
2 party to the compact. The NLC would authorize a state that is a
3 party to the compact to limit, suspend, or revoke the multistate
4 licensure privilege of any nurse to practice in that state, and to take
5 any other actions under the applicable state laws that may be
6 necessary to protect the health and safety of the citizens of the party
7 state.

8 The NLC would also establish a coordinated licensure
9 information system that will include a database on the licensure and
10 disciplinary history of all nurses licensed in the party states. The
11 party states will be required to report to the coordinated system all
12 adverse actions against nurses, including actions against multistate
13 licensure privileges, any current significant investigative
14 information yet to result in an adverse action, and denials of
15 applications and the reasons therefor. This information will be
16 shared with party states unless the state submitting the information
17 designates information that may not be shared or disclosed without
18 the permission of the contributing state. The coordinated licensure
19 information system is to be administered by a nonprofit
20 organization composed of and controlled by state nurse licensing
21 boards.

22 The NLC would also establish the Interstate Commission of
23 Nurse Licensure Compact Administrators as a joint public
24 instrumentality of the party states. However, nothing in the
25 compact is to be construed as a waiver of sovereign immunity.
26 Each party state will be required to have its compact administrator –
27 the head of the state licensing board, or their designee – participate
28 as a member of the commission. The commission will be required
29 to meet at least once a year.

30 The compact grants the commission broad powers to: (1)
31 promulgate uniform rules – having the effect of law – in order to
32 facilitate and coordinate implementation and administration of the
33 compact in the party states; (2) bring and prosecute legal
34 proceedings in the name of the commission; (3) appoint advisory
35 and other committees comprised of administrators, state nursing
36 regulators, state legislators, consumer representatives, and other
37 interested parties; and (4) cooperate with other organizations that
38 administer state compacts related to the practice of nursing. The
39 commission would further be authorized to identify defaults in the
40 performance of a party state in meeting its obligations or
41 responsibilities under the compact; to provide training and technical
42 assistance to a party state, in order to assist the party state in curing
43 any defaults; and to terminate a defaulting party state's membership
44 in the compact if all means of securing compliance have been
45 exhausted. The compact also authorizes the commission to levy,
46 and collect from each party state, an annual assessment that would
47 cover the cost of commission operations, activities, and staff. All
48 of the administrators, officers, employees, representatives, and the
49 executive director of the commission would be immune from

1 liability, either personally or in their official capacity, for any civil
2 claims arising out of any actual or alleged act, error, or omission
3 that occurred (or that the accused had a reasonable basis for
4 believing had occurred) within the scope of commission
5 employment, duties, or responsibilities, except in the case of
6 intentional, willful, or wanton misconduct.

7 Nothing in the NLC would abrogate or supersede the provisions
8 in Title 45 of the Revised Statutes, or in any other title or chapter of
9 law applicable to the practice of nursing in this State. In any
10 instance of an omission from the compact, the provisions of Title 45
11 of the Revised Statutes or other applicable statutory law, and any
12 regulations adopted pursuant thereto, would be controlling.
13 However, if there is an irreconcilable conflict between the NLC and
14 chapter 11 of Title 45 of the Revised Statutes (which pertains to the
15 practice of nursing), the provisions of the compact would control.
16 Nothing in the NLC would abrogate or supersede the provisions in
17 Title 34 of the Revised Statutes, or in any other title or chapter of
18 law applicable to labor practices, workforce strikes, or the
19 resolution of labor disputes in this State. Nothing in the compact
20 will be deemed to waive or abrogate in any way any defense or
21 immunity of a public entity or public employee under the common
22 law or statutory law.

23 The NLC is intended to address the expanded mobility of nurses
24 and the use of advanced communication technologies (telemedicine)
25 by nurses, which each necessitate greater coordination and
26 cooperation among states in the areas of nurse licensure and
27 regulation. The NLC is also intended to facilitate the exchange of
28 information between states in the area of nurse regulation,
29 investigation, and adverse actions. In July 2017, North Carolina
30 became the 26th state to enact legislation agreeing to participate in
31 the NLC, making the compact effective and binding on the party
32 states, which include Maryland and Delaware.

33 Although New Jersey entered into a prior version of the
34 multistate NLC through the enactment of P.L.2001, c.340
35 (C.45:11A-1 et seq.), this law was only temporary in nature, and it
36 expired on January 1, 2007. The National Council of State Boards
37 of Nursing has adopted a revised version of the compact.
38 Accordingly, the bill incorporates the updated provisions of the
39 NLC, as adopted by the National Council of State Boards of
40 Nursing on May 4, 2015.

41 The bill would require that the Attorney General, one year after
42 New Jersey becomes a party to the compact, submit a report to the
43 Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
44 19.1), to the Legislature, indicating whether the State's continued
45 participation in the compact is in the best interest of the health,
46 safety, and welfare of its citizens. At a minimum, the report will be
47 required to: (1) describe the beneficial and detrimental effects,
48 evidenced during the preceding year, which have resulted from the
49 State's participation in the compact; (2) describe any potential long-

1 term effects that have not yet been experienced, but which are likely
2 to result from the State's continued participation in the compact; (3)
3 indicate whether any other party state has changed its licensure
4 requirements in the preceding year to make them less stringent than
5 the requirements in this State; and (4) provide a recommendation as
6 to whether the State should remain a party to the compact.

7 The bill authorizes the Legislature to withdraw New Jersey from
8 the compact if the report submitted by the Attorney General,
9 pursuant to the bill's provisions, indicates that a party state has
10 changed its licensure requirements to make them substantially lower
11 than the requirements of this State, or that withdrawal from the
12 compact is in the best interests of the health, safety, and welfare of
13 the citizens of New Jersey.

SENATE, No. 1699

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED FEBRUARY 5, 2018

Sponsored by:
Senator TROY SINGLETON
District 7 (Burlington)

SYNOPSIS

Enters New Jersey in Nurse Multistate Licensure Compact.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the Nurse Multistate Licensure Compact and
2 supplementing Title 45 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. The State of New Jersey enacts and enters into the Nurse
8 Multistate Licensure Compact with all other jurisdictions that
9 legally join in the compact in the form substantially as follows:

10

11 Article I. Findings and Statement of Purpose.

12

13 1. The party states to this compact find that:

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

17 b. Violations of nurse licensure and other laws relating to the
18 practice of nursing may result in injury or harm to the public;

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

23 d. New practice modalities and technology make compliance
24 with individual state nurse licensure laws difficult and complex;
25 and

26 e. The current system of duplicative licensure for nurses
27 practicing in multiple states is cumbersome and redundant to both
28 nurses and the states.

29

30 2. The general purposes of this compact are to:

31 a. Facilitate the states' responsibility to protect the health and
32 safety of the public;

33 b. Ensure and encourage the cooperation of party states in the
34 areas of nurse licensure and regulation;

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

37 d. Promote compliance with the laws governing the practice of
38 nursing in each jurisdiction; and

39 e. Through the mutual recognition of party state licenses,
40 authorize the party states to hold a nurse accountable for meeting all
41 nurse practice laws in the state in which the patient is located at the
42 time that care was rendered.

43

44 Article II. Definitions.

45

46 3. For the purposes of this compact, and of any supplemental or
47 concurring legislation enacted under this compact, except as may be
48 otherwise required by the context:

S1699 SINGLETON

- 1 a. "Adverse action" means a home or remote state action.
- 2 b. "Alternative program" means a voluntary, nondisciplinary
3 monitoring program approved by a nurse licensing board.
- 4 c. "Compact" means this Nurse Multistate Licensing Compact.
- 5 d. "Coordinated licensure information system" means an
6 integrated process for collecting, storing, and sharing information
7 on nurse licensure and enforcement activities related to nurse
8 licensure laws, that is administered by a nonprofit organization
9 composed of and controlled by state nurse licensing boards.
- 10 e. "Current significant investigative information" means
11 investigative information that indicates a licensee:
 - 12 (1) has committed more than a minor infraction; or
 - 13 (2) represents an immediate threat to public health and safety.
- 14 f. "Home state" means the party state that is the nurse's
15 primary state of residence.
- 16 g. "Home state action" means any administrative, civil,
17 equitable, or criminal action permitted by the laws of the home state
18 that is imposed on a nurse by the licensing board or other authority
19 of the home state. "Home state action" includes: revocation,
20 suspension, or probation of a licensee; or any other action that
21 affects a nurse's authorization to practice.
- 22 h. "Licensee" means a person licensed by the New Jersey
23 Board of Nursing or the nurse licensing board of a party state.
- 24 i. "Licensing board" means a party state's regulatory agency
25 that is responsible for licensing nurses.
- 26 j. "Multistate licensure privilege" means the current, official
27 authority from a remote state permitting the practice of nursing as
28 either a registered nurse or a licensed practical or vocational nurse
29 in a party state.
- 30 k. "Nurse" means a registered nurse or a licensed practical or
31 vocational nurse as those terms are defined by the laws of each
32 party state.
- 33 l. "Party state" means any state that has adopted this compact.
- 34 m. "Remote state" means the party state, other than the home
35 state:
 - 36 (1) where the patient is located at the time nursing care is
37 provided; or
 - 38 (2) in the case of the practice of nursing that does not involve a
39 patient, where the recipient of nursing practices is located.
- 40 n. "Remote state action" means any:
 - 41 (1) administrative, civil, equitable, or criminal action permitted
42 by the laws of the remote state which are imposed on a nurse by the
43 remote state's nurse licensing board or other authority, including
44 actions against an individual's multistate licensure privilege to
45 practice in the remote state; and
 - 46 (2) cease and desist or other injunctive or equitable orders
47 issued by remote states or their licensing boards.
- 48 o. "State" means a state, territory, or possession of the United

1 States, the District of Columbia, or the Commonwealth of Puerto
2 Rico.

3 p. "State practice laws" means those individual party state's
4 laws and regulations that govern the practice of nursing, define the
5 scope of nursing practice, and create the methods and grounds for
6 disciplining nurses. "State practice laws" does not include the
7 initial qualifications for licensure or the requirements necessary to
8 obtain and retain a license, except for the qualifications and
9 requirements of the home state.

10

11 Article III. General Provisions and Jurisdiction.

12

13 4. a. A license to practice registered nursing issued by a home
14 state to a resident of that state shall be recognized by each party
15 state as authorization for a multistate licensure privilege to practice
16 as a registered nurse in a party state. A license to practice practical
17 or vocational nursing issued by a home state to a resident in that
18 state shall be recognized by each party state as authorization for a
19 multistate licensure privilege to practice as a licensed practical or
20 vocational nurse in a party state. In order to obtain or retain a
21 license, an applicant shall meet the home state's qualifications for
22 licensure and license renewal, as well as other applicable state laws.

23 b. Party states may, in accordance with the due process laws of
24 that state, limit, suspend, or revoke the multistate licensure
25 privilege of any licensee to practice in the state and may take any
26 other actions under the applicable state laws necessary to protect the
27 health and safety of the citizens of the party state. If a party state
28 takes an action authorized by this section, it shall promptly notify
29 the administrator of the coordinated licensure information system.
30 The administrator shall promptly notify the home state of any
31 actions by remote states.

32 c. Every licensee practicing in a party state shall comply with
33 the state practice laws of the state in which the patient is located at
34 the time that care is rendered. The practice of nursing is not limited
35 to patient care, but shall include all nursing practice, as defined by
36 the practice laws of a party state. The practice of nursing in a party
37 state shall subject a nurse to the jurisdiction of the nurse licensing
38 board and the laws and courts of the party state.

39 d. This compact does not affect additional requirements
40 imposed by states for advanced practice registered nursing.
41 However, a multistate licensure privilege to practice registered
42 nursing granted by a party state shall be recognized by other party
43 states as a license to practice registered nursing if one is required by
44 state law as a precondition for qualifying for advanced practice
45 registered nurse authorization.

46 e. Persons not residing in a party state may continue to apply
47 for nurse licensure in party states as provided for under the laws of
48 each party state. The license granted to the person shall not be

1 recognized as granting the privilege to practice nursing in any other
2 party state unless explicitly agreed to by that party state.

3

4 Article IV. Application for Licensure in a Party State.

5

6 5. a. Upon receiving an application for a license, the licensing
7 board in a party state shall ascertain, through the coordinated
8 licensure information system, whether:

9 (1) the applicant holds or has ever held a license issued by any
10 other state;

11 (2) there are any restrictions on the applicant's multistate
12 licensure privilege; and

13 (3) any other adverse action by any state has been taken against
14 the applicant's license.

15 b. A licensee in a party state shall hold licensure in only one
16 party state at a time, which license shall be issued by the home
17 state.

18 c. A licensee who intends to change his primary state of
19 residence may apply for licensure in the new home state in advance
20 of the change; however, a new license shall not be issued by a party
21 state until after the licensee provides evidence of the change in
22 primary state of residence that is satisfactory to the new home
23 state's licensing board.

24 d. When a licensee changes his primary state of residence by
25 moving:

26 (1) between two party states and obtains a license from the new
27 home state, the license from the former home state is no longer
28 valid;

29 (2) from a nonparty state to a party state and obtains a license
30 from the new home state, the license issued by the nonparty state
31 shall not be affected and shall remain in full force if the laws of the
32 nonparty state so provide; and

33 (3) from a party state to a nonparty state, the license issued by
34 the former home state converts to an individual state license that is
35 valid only in the former home state. The license does not grant the
36 multistate licensure privilege to practice in other party states.

37

38 Article V. Adverse Actions.

39

40 6. a. The remote state's nurse licensing board shall promptly
41 report to the administrator of the coordinated licensure information
42 system any remote state actions, including the factual and legal
43 basis for the actions, if known. The remote state's nurse licensing
44 board shall also promptly report any current significant
45 investigative information yet to result in a remote state action. The
46 administrator shall promptly notify the home state of any such
47 reports.

48 b. The party state's nurse licensing board may complete any

1 pending investigation of a licensee who changes his primary state of
2 residence during the course of an investigation. It may also take
3 appropriate action against a licensee, and shall promptly report the
4 conclusion of the investigation to the administrator of the
5 coordinated licensure information system. The administrator shall
6 promptly notify the new home state of any action taken against a
7 licensee.

8 c. A remote state may take adverse action that affects the
9 multistate licensure privilege to practice within that party state;
10 however, only the home state may take adverse action that affects a
11 license that was issued by the home state.

12 d. For purposes of taking adverse action, the home state's nurse
13 licensing board shall give the same priority and effect to the
14 conduct reported by a remote state that it would if the conduct had
15 occurred in the home state. The board shall apply its own state laws
16 to determine the appropriate action that should be taken against the
17 licensee.

18 e. The home state may take adverse action based upon the
19 factual findings of the remote state, if each state follows its own
20 procedures for imposing the adverse action.

21 f. Nothing in this compact shall prohibit a party state from
22 allowing a licensee to participate in an alternative program instead
23 of taking adverse action against the licensee. If required by the
24 party state's laws, the licensee's participation in an alternative
25 program shall be confidential information. Party states shall require
26 licensees who enter alternative programs to agree not to practice in
27 any other party state during the term of the alternative program
28 without prior authorization from the other party state.

29

30 Article VI. Additional Authority Invested in Party State Nurse
31 Licensing Boards.

32

33 7. Notwithstanding any other powers, party state nurse
34 licensing boards may:

35 a. If otherwise permitted by state law, recover from the
36 licensee the costs of investigating and disposing of cases that result
37 in adverse action;

38 b. Issue subpoenas for both hearings and investigations that
39 require the attendance and testimony of witnesses, and the
40 production of evidence. Subpoenas issued by a party state nurse
41 licensing board for the attendance and testimony of witnesses or the
42 production of evidence from another party state, shall be enforced
43 in the other party state by any court of competent jurisdiction,
44 according to the practice and procedure of that court. The issuing
45 authority shall pay any witness fees, travel expenses, mileage, and
46 other fees required by the laws of the party state where the
47 witnesses or the evidence are located;

48 c. Issue cease and desist orders to limit or revoke a licensee's

1 authority to practice in the board's state; and

2 d. Adopt uniform rules and regulations that are developed by
3 the compact administrators pursuant to Article VIII of this compact.

4

5 Article VII. Coordinated Licensure Information System.

6

7 8. a. All party states shall participate in a cooperative effort to
8 create a coordinated database of all licensed registered nurses and
9 licensed practical or vocational nurses. This system shall include
10 information on the licensure and disciplinary history of each
11 licensee, as contributed by party states, to assist in the coordination
12 of nurse licensure and enforcement efforts.

13 b. Notwithstanding any other provision of law to the contrary,
14 the party states' nurse licensing boards shall promptly report to the
15 coordinated licensure information system any adverse action taken
16 against licensees, actions against multistate licensure privileges, any
17 current significant investigative information yet to result in adverse
18 action, and any denials of applications for licensure, and the reasons
19 for the denials.

20 c. Current significant investigative information shall be
21 transmitted through the coordinated licensure information system
22 only to the party states' nurse licensing boards.

23 d. Notwithstanding any other provision of law to the contrary,
24 all party states' nurse licensing boards contributing information to
25 the coordinated licensure information system may designate
26 information that shall not be shared with nonparty states or
27 disclosed to other individuals or entities without the express
28 permission of the contributing party state.

29 e. Any personally identifiable information obtained by a party
30 state nurse licensing board from the coordinated licensure
31 information system shall not be shared with nonparty states or
32 disclosed to other individuals or entities except to the extent
33 permitted by the laws of the party state contributing the
34 information.

35 f. Any information contributed to the coordinated licensure
36 information system that is subsequently required to be expunged by
37 the laws of the party state contributing that information shall be
38 expunged from the coordinated licensure information system.

39 g. The compact administrators, acting jointly and in
40 consultation with the administrator of the coordinated licensure
41 information system, shall formulate necessary and proper
42 procedures for the identification, collection, and exchange of
43 information under this compact.

44

45 Article VIII. Compact Administration and Interchange of
46 Information.

1 9. a. The executive director of the nurse licensing board of
2 each party state, or the executive director's designee, shall be the
3 administrator of this compact for that state.

4 b. In New Jersey, the administrator of this compact shall be the
5 Director of the Division of Consumer Affairs in the Department of
6 Law and Public Safety or the director's designee.

7 c. To facilitate the administration of this compact, the compact
8 administrator of each party state shall furnish to the compact
9 administrators of all other party states any information and
10 documents concerning each licensee, including a uniform data set of
11 investigations, identifying information, licensure data, and
12 disclosable alternative program participation information.

13 d. Compact administrators shall develop uniform rules and
14 regulations to facilitate and coordinate implementation of this
15 compact. These uniform rules shall be adopted by party states,
16 pursuant to Article VI of this compact.

17
18 Article IX. Immunity.
19

20 10. A party state, and the officers, employees, or agents of a
21 party state's nurse licensing board, who act in accordance with this
22 compact shall not be liable for any good faith act or omission
23 committed while they were engaged in the performance of their
24 duties under this compact. Good faith shall not include willful
25 misconduct, gross negligence or recklessness.

26
27 Article X. Effective Date, Withdrawal and Amendment.
28

29 11. a. This compact shall become effective as to any state when
30 it has been enacted into the laws of that state. A party state may
31 withdraw from the compact by enacting a statute repealing the
32 compact, but the withdrawal shall not take effect until six months
33 after the withdrawing state has given notice of the withdrawal to the
34 compact administrators of all other party states.

35 b. No withdrawal shall affect the validity or applicability of
36 any report of adverse action taken by the nurse licensing board of a
37 state that remains a party to the compact if the adverse action
38 occurred prior to the withdrawal.

39 c. This compact does not invalidate or prevent any nurse
40 licensure agreement or other cooperative agreement between a party
41 state and a nonparty state that is made in accordance with this
42 compact.

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

1 Article XI. Construction and Severability.

2

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

16 b. In the event party states find a need for settling disputes
17 arising under this compact, the party states shall submit the issues
18 in dispute to an arbitration panel that shall consist of an individual
19 appointed by the compact administrator in the home state, an
20 individual appointed by the compact administrator in the remote
21 states involved, and an individual appointed by the compact
22 administrators of all of the party states involved in the dispute. The
23 decision of a majority of the arbitrators shall be final and binding.

24

25 2. a. A State licensed nurse whose license is under suspension
26 or under probation by the New Jersey Board of Nursing, or who is
27 participating in an established treatment program which is an
28 alternative to disciplinary action, shall not practice in any other
29 party state during the term of the suspension, probation, or
30 participation without prior authorization from the other party state.
31 The board may revoke the State license of a nurse under suspension,
32 probation, or participation who practices nursing in another party
33 state without prior authorization from that state.

34 b. The multistate licensure privilege granted by this State
35 pursuant to the compact is subject to revocation or other
36 disciplinary action as the result of any disciplinary action imposed
37 by a nurse's home state.

38

39 3. This compact is intended to facilitate the regulation of the
40 practice of nursing and does not relieve employers from complying
41 with contractual and statutorily imposed obligations.

42

43 4. a. This compact shall not abrogate any provision in Title 45
44 of the Revised Statutes or any other title applicable to the practice
45 of nursing in this State.

46 b. If there is an irreconcilable conflict between this compact
47 and chapter 11 of Title 45 of the Revised Statutes, the compact shall
48 control.

1 c. Omissions in this compact shall not be supplied by
2 construction. In any instance of an omission from the compact, the
3 remaining provisions of Title 45 of the Revised Statutes or other
4 applicable statutory law, and any regulations adopted pursuant
5 thereto, shall control.

6
7 5. The provisions of this act are applicable only to nurses
8 whose home states are determined by the New Jersey Board of
9 Nursing to have licensure requirements that are substantially
10 equivalent or more stringent than those of New Jersey.

11
12 6. Any investigative or disciplinary powers conferred on the
13 Attorney General, the Director of the Division of Consumer Affairs
14 in the Department of Law and Public Safety, and the New Jersey
15 Board of Nursing under the provisions of P.L.1978, c.73 (C.45:1-14
16 et seq.) or other law, or under regulations adopted pursuant thereto,
17 shall not be interpreted as limited in any way by the terms of the
18 compact and shall be available in any investigation of the conduct
19 of, or disciplinary action against, a remote state licensee practicing
20 in New Jersey and of a New Jersey home state licensee.

21
22 7. Nothing in Article IX of the compact shall be deemed to
23 waive or abrogate in any way any defense or immunity of a public
24 entity or public employee under the common law or statutory law
25 including, but not limited to, the "New Jersey Tort Claims Act,"
26 N.J.S.59:1-1 et seq.

27
28 8. The Governor may withdraw this State from the compact if
29 the Attorney General notifies the Governor that a state that is a
30 party to the compact has changed its licensure requirements to make
31 them substantially lower than the requirements of this State, or that
32 withdrawal from the compact is in the best interests of the health,
33 safety, and welfare of the citizens of this State.

34
35 9. This act shall take effect immediately.

36
37
38 STATEMENT

39
40 This bill would enter New Jersey in the Nurse Multistate
41 Licensure Compact (NMLC).

42 The NMLC provides for a mutual recognition model of nurse
43 licensure (for registered professional nurses and licensed practical
44 nurses), in which a nurse only needs to obtain one license from the
45 nurse's state of residence in order to be permitted to practice nursing
46 in any other state that is a party to the compact, as long as the nurse
47 complies with the state practice laws of the state in which the
48 patient is located at the time that care is rendered. Currently, a

1 nurse is required to be licensed in, and by, each state in which the
2 nurse chooses to practice.

3 Under the NMLC, a nurse who applies for licensure is required
4 to meet the qualifications for licensure and license renewal of the
5 nurse's state of residence. While a nurse may be licensed in any
6 state or states that are not parties to the compact, a nurse may only
7 be licensed in one state that is a party to the compact. The NMLC
8 authorizes a state that is a party to the compact to limit, suspend, or
9 revoke the multistate licensure privilege of any nurse to practice in
10 that state and may take any other actions under the applicable state
11 laws necessary to protect the health and safety of the citizens of the
12 party state. All party states are authorized to take actions against a
13 nurse's privileges to practice in the state, including, suspension,
14 revocation, or probation. In New Jersey, the Director of the
15 Division of Consumer Affairs in the Department of Law and Public
16 Safety is to be the Compact Administrator.

17 The NMLC also establishes a coordinated licensure information
18 system that will include a database on the licensure and disciplinary
19 history of all nurses licensed in the party states. The party states
20 will be required to report to the coordinated system all adverse
21 actions against nurses, including actions against multistate licensure
22 privileges, any current significant investigative information yet to
23 result in an adverse action, and denials of applications and the
24 reasons for the denials. This information will be shared with party
25 states unless the state submitting the information designates
26 information that may not be shared or disclosed without the
27 permission of the contributing state. The coordinated licensure
28 information system is to be administered by a nonprofit
29 organization composed of and controlled by state nurse licensing
30 boards.

31 The NMLC is intended to address the expanded mobility of
32 nurses and the use of advanced communication technologies
33 (telemedicine) by nurses, which requires greater coordination and
34 cooperation among states in the areas of nurse licensure and
35 regulation. The NMLC also is intended to facilitate the exchange of
36 information between states in the area of nurse regulation,
37 investigation and adverse actions. As of October 2009, 23 states
38 (including Maryland and Delaware) were participating in the
39 NMLC.

40 The provisions of this bill are identical to those of P.L.2001,
41 c.340 (C.45:11A-1 et seq.), which entered New Jersey in the NMLC
42 for a five-year period (from January 1, 2002 to January 1, 2007),
43 but expired without ever being implemented.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 954 and 1699**

STATE OF NEW JERSEY

DATED: MAY 20, 2019

The Assembly Appropriations Committee reports favorably Senate Bill No. 954 and 1299 (1R SCS).

This substitute, would enter New Jersey in the enhanced multistate Nurse Licensure Compact (eNLC), which was implemented as of January 19, 2018.

The eNLC provides for a mutual recognition model of nurse licensure (for registered professional nurses and licensed practical nurses), in which a nurse only needs to obtain one license from the nurse's state of residence in order to be permitted to practice nursing in any other state that is a party to the compact, as long as the nurse complies with the state practice laws of the state in which the patient is located at the time that care is rendered. Currently, a nurse is required to be licensed in, and by, each state in which the nurse chooses to practice.

Under the eNLC, a nurse who applies for licensure is required to meet the qualifications for licensure and license renewal of the nurse's state of residence. While a nurse may be licensed in any state or states that are not parties to the compact, a nurse may only be licensed in one state that is a party to the compact. The eNLC authorizes a state that is a party to the compact to limit, suspend, or revoke the multistate licensure privilege of any nurse to practice in that state and may take any other actions under the applicable state laws necessary to protect the health and safety of the citizens of the party state. All party states are authorized to take actions against a nurse's privileges to practice in the state, including, suspension, revocation, or probation.

The eNLC also establishes a coordinated licensure information system that will include a database on the licensure and disciplinary history of all nurses licensed in the party states. The party states will be required to report to the coordinated system all adverse actions against nurses, including actions against multistate licensure privileges, any current significant investigative information yet to result in an adverse action, and denials of applications and the reasons for the denials. This information will be shared with party states unless the state submitting the information designates information that

may not be shared or disclosed without the permission of the contributing state. The coordinated licensure information system is to be administered by a nonprofit organization composed of and controlled by state nurse licensing boards.

The eNLC is intended to address the expanded mobility of nurses and the use of advanced communication technologies (telemedicine) by nurses, which requires greater coordination and cooperation among states in the areas of nurse licensure and regulation. The eNLC also is intended to facilitate the exchange of information between states in the area of nurse regulation, investigation and adverse actions.

The eNLC will also establish the Interstate Commission of Nurse Licensure Compact Administrators as a joint public instrumentality of the party states. However, nothing in the compact is to be construed as a waiver of sovereign immunity. Each party state will be required to have its compact administrator, which is to be the head of the state licensing board, or that individual's designee, participate as a member of the commission. The commission will be required to meet at least once a year.

The compact grants the commission broad powers to: (1) promulgate uniform rules, which will have the effect of law, in order to facilitate and coordinate implementation and administration of the compact in the party states; (2) bring and prosecute legal proceedings in the name of the commission; (3) appoint advisory and other committees comprised of administrators, state nursing regulators, state legislators, consumer representatives, and other interested parties; and (4) cooperate with other organizations that administer state compacts related to the practice of nursing. The commission will further be authorized to identify defaults in the performance of a party state in meeting its obligations or responsibilities under the compact; to provide training and technical assistance to a party state in order to assist the party state in curing any defaults; and to terminate a defaulting party state's membership in the compact if all means of securing compliance have been exhausted. The compact also authorizes the commission to levy, and collect from each party state, an annual assessment to cover the cost of commission operations, activities, and staff. All of the administrators, officers, employees, representatives, and the executive director of the commission will be immune from liability, either personally or in their official capacities, for any civil claims arising out of any actual or alleged act, error, or omission that occurred, or that the accused had a reasonable basis for believing had occurred, within the scope of commission employment, duties, or responsibilities, except in the case of intentional, willful, or wanton misconduct.

The substitute requires the Attorney General to submit a report to the Governor and to the Legislature, one year after New Jersey becomes a party to the compact, evaluating whether the State's

continued participation in the compact is in the best interest of the health, safety, and welfare of its citizens. At a minimum, the report is to: (1) describe the beneficial and detrimental effects resulting from the State's participation in the compact; (2) describe any potential long-term effects that are likely to result from the State's continued participation in the compact; (3) indicate whether any other party state has changed its licensure requirements in the preceding year to make them less stringent than the requirements in New Jersey; and (4) provide a recommendation as to whether the State should remain a party to the compact. The Legislature may withdraw the State from the compact if the Attorney General's report indicates that another party state has changed its licensure requirements to make them substantially lower than the requirements of New Jersey, or that withdrawal from the compact is in the best interests of the health, safety, and welfare of the citizens of New Jersey.

New Jersey entered into a prior version of the multistate NLC through the enactment of P.L.2001, c.340 (C.45:11A-1 et seq.). However, that law was temporary in nature and expired on January 1, 2007, without being implemented. The National Council of State Boards of Nursing has since adopted a revised version of the compact, known as the enhanced compact. Accordingly, the substitute incorporates the provisions of the enhanced NLC, as adopted by the National Council of State Boards of Nursing on May 4, 2015, and implemented on January 19, 2018, with 29 member states as of that date.

As reported, this bill is identical to Assembly Bill No. 1597 (1R), as amended and reported by the committee.

FISCAL IMPACT:

The Office of Legislative Services (OLS) finds that the substitute will cause indeterminate increases and decreases in annual State expenditures and revenues. The OLS cannot quantify the two fiscal effects on the Board of Nursing, given the lack of sufficient information regarding: 1) the increase in board operating expenses from joining the Nurse Licensure Compact (NLC) and regulating additional out-of-state NLC nurses who practice in New Jersey; and 2) the decrease in license fee revenues from an unknown number of nurses practicing in this State who reside in other NLC states who will no longer apply for a New Jersey license.

Annual Board of Nursing operating expenditures will increase, in part, from the payment of an annual assessment to the Interstate Commission of Nurse Licensure Compact Administrators, which is currently \$6,000 per participating state, and sending a representative to the commission's annual meetings.

Compact participation may result in one-time expenditures from any modification that may have to be made to nurse licensees to comply with compact requirements and the production of an

evaluative report after New Jersey's first year of compact participation.

As the board is statutorily required to pay for its operating expenses out of its fee collections, the OLS notes that the board can be expected to adjust its license fee amounts, if necessary, to account for any significant changes in its finances as a result of joining the NLC.

SENATE HEALTH, HUMAN SERVICES AND SENIOR
CITIZENS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, Nos. 954 and 1699

STATE OF NEW JERSEY

DATED: MAY 21, 2018

The Senate Health, Human Services and Senior Citizens Committee reports favorably Senate Committee Substitute for Senate Bill Nos. 954 and 1699.

This substitute would enter New Jersey in the enhanced multistate Nurse Licensure Compact (eNLC), which was implemented as of January 19, 2018.

The eNLC provides for a mutual recognition model of nurse licensure (for registered professional nurses and licensed practical nurses), in which a nurse only needs to obtain one license from the nurse's state of residence in order to be permitted to practice nursing in any other state that is a party to the compact, as long as the nurse complies with the state practice laws of the state in which the patient is located at the time that care is rendered. Currently, a nurse is required to be licensed in, and by, each state in which the nurse chooses to practice.

Under the eNLC, a nurse who applies for licensure is required to meet the qualifications for licensure and license renewal of the nurse's state of residence. While a nurse may be licensed in any state or states that are not parties to the compact, a nurse may only be licensed in one state that is a party to the compact. The eNLC authorizes a state that is a party to the compact to limit, suspend, or revoke the multistate licensure privilege of any nurse to practice in that state and may take any other actions under the applicable state laws necessary to protect the health and safety of the citizens of the party state. All party states are authorized to take actions against a nurse's privileges to practice in the state, including, suspension, revocation, or probation.

The eNLC also establishes a coordinated licensure information system that will include a database on the licensure and disciplinary history of all nurses licensed in the party states. The party states will be required to report to the coordinated system all adverse actions against nurses, including actions against multistate licensure privileges, any current significant investigative information yet to result in an adverse action, and denials of applications and the reasons for the denials. This information will be shared with party states unless the state submitting the information designates information that

may not be shared or disclosed without the permission of the contributing state. The coordinated licensure information system is to be administered by a nonprofit organization composed of and controlled by state nurse licensing boards.

The eNLC is intended to address the expanded mobility of nurses and the use of advanced communication technologies (telemedicine) by nurses, which requires greater coordination and cooperation among states in the areas of nurse licensure and regulation. The eNLC also is intended to facilitate the exchange of information between states in the area of nurse regulation, investigation and adverse actions.

The eNLC will also establish the Interstate Commission of Nurse Licensure Compact Administrators as a joint public instrumentality of the party states. However, nothing in the compact is to be construed as a waiver of sovereign immunity. Each party state will be required to have its compact administrator, which is to be the head of the state licensing board, or that individual's designee, participate as a member of the commission. The commission will be required to meet at least once a year.

The compact grants the commission broad powers to: (1) promulgate uniform rules, which will have the effect of law, in order to facilitate and coordinate implementation and administration of the compact in the party states; (2) bring and prosecute legal proceedings in the name of the commission; (3) appoint advisory and other committees comprised of administrators, state nursing regulators, state legislators, consumer representatives, and other interested parties; and (4) cooperate with other organizations that administer state compacts related to the practice of nursing. The commission will further be authorized to identify defaults in the performance of a party state in meeting its obligations or responsibilities under the compact; to provide training and technical assistance to a party state in order to assist the party state in curing any defaults; and to terminate a defaulting party state's membership in the compact if all means of securing compliance have been exhausted. The compact also authorizes the commission to levy, and collect from each party state, an annual assessment to cover the cost of commission operations, activities, and staff. All of the administrators, officers, employees, representatives, and the executive director of the commission will be immune from liability, either personally or in their official capacities, for any civil claims arising out of any actual or alleged act, error, or omission that occurred, or that the accused had a reasonable basis for believing had occurred, within the scope of commission employment, duties, or responsibilities, except in the case of intentional, willful, or wanton misconduct.

Nothing in the eNLC will abrogate or supersede the provisions of Title 45 of the Revised Statutes or any other title or chapter of law applicable to the practice of nursing in this State. In any instance of an omission from the compact, the provisions of Title 45 of the Revised Statutes or other applicable statutory or regulatory law will be

controlling. Nothing in the eNLC will abrogate or supersede the provisions in Title 34 of the Revised Statutes, or in any other title or chapter of law applicable to labor practices, workforce strikes, or the resolution of labor disputes in this State.

The substitute requires the Attorney General to submit a report to the Governor and to the Legislature, one year after New Jersey becomes a party to the compact, evaluating whether the State's continued participation in the compact is in the best interest of the health, safety, and welfare of its citizens. At a minimum, the report is to: (1) describe the beneficial and detrimental effects resulting from the State's participation in the compact; (2) describe any potential long-term effects that are likely to result from the State's continued participation in the compact; (3) indicate whether any other party state has changed its licensure requirements in the preceding year to make them less stringent than the requirements in New Jersey; and (4) provide a recommendation as to whether the State should remain a party to the compact. The Legislature may withdraw the State from the compact if the Attorney General's report indicates that another party state has changed its licensure requirements to make them substantially lower than the requirements of New Jersey, or that withdrawal from the compact is in the best interests of the health, safety, and welfare of the citizens of New Jersey.

New Jersey entered into a prior version of the multistate NLC through the enactment of P.L.2001, c.340 (C.45:11A-1 et seq.). However, that law was temporary in nature and expired on January 1, 2007, without being implemented. The National Council of State Boards of Nursing has since adopted a revised version of the compact, known as the enhanced compact. Accordingly, the substitute incorporates the provisions of the enhanced NLC, as adopted by the National Council of State Boards of Nursing on May 4, 2015, and implemented on January 19, 2018, with 29 member states as of that date.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, Nos. 954 and 1699**

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 7, 2019

The Senate Budget and Appropriations Committee reports favorably a Senate Committee Substitute for Senate Bill Nos. 954 and 1699, with committee amendments.

This substitute, as amended, would enter New Jersey in the enhanced multistate Nurse Licensure Compact (eNLC), which was implemented as of January 19, 2018.

The eNLC provides for a mutual recognition model of nurse licensure (for registered professional nurses and licensed practical nurses), in which a nurse only needs to obtain one license from the nurse's state of residence in order to be permitted to practice nursing in any other state that is a party to the compact, as long as the nurse complies with the state practice laws of the state in which the patient is located at the time that care is rendered. Currently, a nurse is required to be licensed in, and by, each state in which the nurse chooses to practice.

Under the eNLC, a nurse who applies for licensure is required to meet the qualifications for licensure and license renewal of the nurse's state of residence. While a nurse may be licensed in any state or states that are not parties to the compact, a nurse may only be licensed in one state that is a party to the compact. The eNLC authorizes a state that is a party to the compact to limit, suspend, or revoke the multistate licensure privilege of any nurse to practice in that state and may take any other actions under the applicable state laws necessary to protect the health and safety of the citizens of the party state. All party states are authorized to take actions against a nurse's privileges to practice in the state, including, suspension, revocation, or probation.

The eNLC also establishes a coordinated licensure information system that will include a database on the licensure and disciplinary history of all nurses licensed in the party states. The party states will be required to report to the coordinated system all adverse actions against nurses, including actions against multistate licensure privileges, any current significant investigative information yet to result in an adverse action, and denials of applications and the reasons for the denials. This information will be shared with party states

unless the state submitting the information designates information that may not be shared or disclosed without the permission of the contributing state. The coordinated licensure information system is to be administered by a nonprofit organization composed of and controlled by state nurse licensing boards.

The eNLC is intended to address the expanded mobility of nurses and the use of advanced communication technologies (telemedicine) by nurses, which requires greater coordination and cooperation among states in the areas of nurse licensure and regulation. The eNLC also is intended to facilitate the exchange of information between states in the area of nurse regulation, investigation and adverse actions.

The eNLC will also establish the Interstate Commission of Nurse Licensure Compact Administrators as a joint public instrumentality of the party states. However, nothing in the compact is to be construed as a waiver of sovereign immunity. Each party state will be required to have its compact administrator, which is to be the head of the state licensing board, or that individual's designee, participate as a member of the commission. The commission will be required to meet at least once a year.

The compact grants the commission broad powers to: (1) promulgate uniform rules, which will have the effect of law, in order to facilitate and coordinate implementation and administration of the compact in the party states; (2) bring and prosecute legal proceedings in the name of the commission; (3) appoint advisory and other committees comprised of administrators, state nursing regulators, state legislators, consumer representatives, and other interested parties; and (4) cooperate with other organizations that administer state compacts related to the practice of nursing. The commission will further be authorized to identify defaults in the performance of a party state in meeting its obligations or responsibilities under the compact; to provide training and technical assistance to a party state in order to assist the party state in curing any defaults; and to terminate a defaulting party state's membership in the compact if all means of securing compliance have been exhausted. The compact also authorizes the commission to levy, and collect from each party state, an annual assessment to cover the cost of commission operations, activities, and staff. All of the administrators, officers, employees, representatives, and the executive director of the commission will be immune from liability, either personally or in their official capacities, for any civil claims arising out of any actual or alleged act, error, or omission that occurred, or that the accused had a reasonable basis for believing had occurred, within the scope of commission employment, duties, or responsibilities, except in the case of intentional, willful, or wanton misconduct.

The substitute requires the Attorney General to submit a report to the Governor and to the Legislature, one year after New Jersey becomes a party to the compact, evaluating whether the State's

continued participation in the compact is in the best interest of the health, safety, and welfare of its citizens. At a minimum, the report is to: (1) describe the beneficial and detrimental effects resulting from the State's participation in the compact; (2) describe any potential long-term effects that are likely to result from the State's continued participation in the compact; (3) indicate whether any other party state has changed its licensure requirements in the preceding year to make them less stringent than the requirements in New Jersey; and (4) provide a recommendation as to whether the State should remain a party to the compact. The Legislature may withdraw the State from the compact if the Attorney General's report indicates that another party state has changed its licensure requirements to make them substantially lower than the requirements of New Jersey, or that withdrawal from the compact is in the best interests of the health, safety, and welfare of the citizens of New Jersey.

New Jersey entered into a prior version of the multistate NLC through the enactment of P.L.2001, c.340 (C.45:11A-1 et seq.). However, that law was temporary in nature and expired on January 1, 2007, without being implemented. The National Council of State Boards of Nursing has since adopted a revised version of the compact, known as the enhanced compact. Accordingly, the substitute incorporates the provisions of the enhanced NLC, as adopted by the National Council of State Boards of Nursing on May 4, 2015, and implemented on January 19, 2018, with 29 member states as of that date.

COMMITTEE AMENDMENTS:

The amendments remove language from section 2 that is unnecessary under the provisions of the enhanced compact, and delete sections 4 and 5, which provided that the compact would not abrogate or supersede the provisions of Title 45 and Title 34 of the Revised Statutes or in any other law applicable to the practice of nursing in this State, or to labor practices, workforce strikes, or the resolution of labor disputes.

FISCAL IMPACT:

The Office of Legislative Services (OLS) finds that the substitute will cause indeterminate increases and decreases in annual State expenditures and revenues. The OLS cannot quantify the two fiscal effects on the Board of Nursing, given the lack of sufficient information regarding: 1) the increase in board operating expenses from joining the Nurse Licensure Compact (NLC) and regulating additional out-of-state NLC nurses who practice in New Jersey; and 2) the decrease in license fee revenues from an unknown number of nurses practicing in this State who reside in other NLC states who will no longer apply for a New Jersey license.

Annual Board of Nursing operating expenditures will increase, in part, from the payment of an annual assessment to the Interstate Commission of Nurse Licensure Compact Administrators, which is currently \$6,000 per participating state, and sending a representative to the commission's annual meetings.

Compact participation may result in one-time expenditures from any modification that may have to be made to nurse licenses to comply with compact requirements and the production of an evaluative report after New Jersey's first year of compact participation.

As the board is statutorily required to pay for its operating expenses out of its fee collections, the OLS notes that the board can be expected to adjust its license fee amounts, if necessary, to account for any significant changes in its finances as a result of joining the NLC.

LEGISLATIVE FISCAL ESTIMATE
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, Nos. 954 and 1699
STATE OF NEW JERSEY
218th LEGISLATURE

DATED: OCTOBER 3, 2018

SUMMARY

Synopsis: Enters New Jersey in multistate Nurse Licensure Compact.

Type of Impact: Annual State Expenditure Increase and State Revenue Decrease.

Agencies Affected: Department of Law and Public Safety (Board of Nursing).

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
Annual State Cost		Indeterminate Increase	
Annual State Revenue		Indeterminate Decrease	

- The Office of Legislative Services (OLS) finds that the substitute will cause indeterminate increases and decreases in annual State expenditures and revenues. The OLS cannot quantify the two fiscal effects on the Board of Nursing, given the lack of sufficient information regarding: 1) the increase in board operating expenses from joining the Nurse Licensure Compact (NLC) and regulating additional out-of-state NLC nurses who practice in New Jersey; and 2) the decrease in license fee revenues from an unknown number of nurses practicing in this State who reside in other NLC states who will no longer apply for a New Jersey license.
- Annual Board of Nursing operating expenditures will increase, in part, from the payment of an annual assessment to the Interstate Commission of Nurse Licensure Compact Administrators, which is currently \$6,000 per participating state, and sending a representative to the commission’s annual meetings.
- Compact participation may result in one-time expenditures from any modification that may have to be made to nurse licenses to comply with compact requirements and the production of an evaluative report after New Jersey’s first year of compact participation.

- As the board is statutorily required to pay for its operating expenses out of its fee collections, the OLS notes that the board can be expected to adjust its license fee amounts, if necessary, to account for any significant changes in its finances as a result of joining the NLC.

BILL DESCRIPTION

This Senate Committee Substitute enters New Jersey in the multistate NLC under which member states mutually recognize the licensure privileges they grant to registered professional nurses and licensed practical nurses. Accordingly, nurses would only have to be licensed in their primary state of residence to be able to practice nursing in any NLC member state. Absent the compact, a nurse is required to be licensed separately in each state in which the nurse chooses to practice.

A nurse who practices nursing in a member state under a multistate licensure privilege is subject to the jurisdiction of the licensing board, the courts and the laws of the member state in which the nurse's client is located at the time service is provided.

The NLC establishes the Interstate Commission of Nurse Licensure Compact Administrators as a joint public instrumentality of the party states. Each party state is required to have its compact administrator, which is to be the head of the state licensing board or that individual's designee, participate as a member of the commission. The commission is required to meet at least once a year. Member state licensing boards must also pay an annual assessment to cover the commission's operating expenses.

Furthermore, the NLC establishes a coordinated licensure information system that includes a database on the licensure and disciplinary history of all nurses licensed in the party states. New Jersey would be required to submit related information to the system and to check the system for possible information on each license applicant. The system is to be administered by a nonprofit organization composed of and controlled by state nurse licensing boards.

In addition, the substitute would require that the Attorney General, one year after New Jersey becomes a party to the compact, submit a report to the Governor and the Legislature indicating whether the State's continued participation in the compact is in the best interest of the health, safety, and welfare of its citizens.

The substitute also authorizes the Legislature to withdraw New Jersey from the compact if the report submitted by the Attorney General indicates that a party state has changed its licensure requirements to make them substantially lower than the requirements of this State, or that withdrawal from the compact is in the best interest of the citizens of New Jersey.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds that the substitute will cause indeterminate increases in annual State expenditures and indeterminate decreases in annual State revenues. The OLS cannot quantify

the two fiscal effects on the New Jersey Board of Nursing, given the lack of sufficient information regarding: 1) the increase in board operating expenses from joining the NLC and regulating additional out-of-state NLC nurses who practice in New Jersey; and 2) the decrease in nursing license fee revenues to the board from nurses practicing in this State who reside in other NLC states who will no longer apply for a license in New Jersey. As the board is statutorily required to pay for its operating expenses out of its fee collections, the OLS notes that the board can be expected to adjust its license fee amounts, if necessary, to account for any significant changes in its finances as a result of joining the NLC.

Background on NLC: According to the National Council of State Boards of Nursing, the multistate compact went into effect on July 20, 2017, when 26 states had enacted the enhanced Nurse Licensure Compact (eNLC) legislation (Arkansas, Arizona, Delaware, Georgia, Florida, Idaho, Iowa, Kentucky, Maine, Maryland, Mississippi, Missouri, Montana, Nebraska, New Hampshire, North Carolina, North Dakota, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, West Virginia, and Wyoming). As of the enactment date, the eNLC commission began to meet, draft rules, policies and set an implementation date. As of January 19, 2018, nurses could practice in eNLC states that have started issuing eNLC multistate licenses.

Although New Jersey entered into a prior version of the multistate NLC through the enactment of P.L.2001, c.340 (N.J.S.A.45:11A-1 et seq.), this law expired on January 1, 2007.

Revenue Decrease: The OLS estimates that the Board of Nursing will experience an indeterminate decrease in annual nursing license fee revenues from nurses practicing in this State who reside in other NLC states who will no longer apply for a license in New Jersey.

Prior to New Jersey's participation in the 2001 NLC agreement, the Division of Consumer Affairs did not anticipate any substantial loss of license revenue to the Board of Nursing as a result of the compact. At the time, 16 percent of all nurses licensed in New Jersey were from out-of-state. Of those out-of-state residents, some 68 percent resided in New York, Pennsylvania, and Florida, which were not members of the compact. Therefore, nurses who resided in these states and practiced in New Jersey were still required to be licensed in New Jersey. Although it is unknown to the OLS where nurses licensed in New Jersey reside currently, New York and Pennsylvania are still not participants in the compact, thereby limiting the reduction in annual license fee collections as a result of New Jersey joining the NLC.

Expenditure Increase: The OLS projects that the Board of Nursing will incur an indeterminate increase in annual operating expenditures as a result of joining the NLC.

In 2001, the Division of Consumer Affairs estimated that \$138,000 would be needed in the first two years of compact membership to update information and complete modifications to its nurse licenses required under the 2001 compact. The division estimated further that \$12,500 would be required annually thereafter for administrative costs associated with the compact. The OLS does not know if the modifications made to the board's nurse licenses in 2001 are sufficient, or if new modifications would need to be made to adhere to the new eNLC.

Further, under the compact, an annual assessment is required to be paid to finance the Interstate Commission of Nurse Licensure Compact Administrators. According to a National Council of the State Boards of Nursing representative, the fee is currently \$6,000 per participating state board of nursing. In addition, the New Jersey Board of Nursing would be required to send a representative to attend the annual meeting of the commission, resulting in additional travel expenses.

Finally, the Office of the Attorney General would be required to prepare a report after the first year of compact participation indicating whether the continued participation is in the best interest of the State. It is unknown to the OLS if due to the analysis requirement the Office of

the Attorney General may incur an indeterminate one-time expenditure increase to meet the additional workload or if the office may absorb it within its existing operating budget.

Section: Law and Public Safety

*Analyst: Kristin Brunner Santos
Senior Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE
 [First Reprint]
 SENATE COMMITTEE SUBSTITUTE FOR
SENATE, Nos. 954 and 1699
STATE OF NEW JERSEY
218th LEGISLATURE

DATED: FEBRUARY 28, 2019

SUMMARY

Synopsis: Enters New Jersey in multistate Nurse Licensure Compact.

Type of Impact: Annual State Expenditure Increase and State Revenue Decrease.

Agencies Affected: Department of Law and Public Safety (Board of Nursing).

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
Annual State Cost		Indeterminate Increase	
Annual State Revenue		Indeterminate Decrease	

- The Office of Legislative Services (OLS) finds that the substitute will cause indeterminate increases in annual State expenditures and indeterminate decreases in annual State revenues. The OLS cannot quantify the two fiscal effects on the Board of Nursing, given the lack of sufficient information regarding: 1) the increase in board operating expenses from joining the Nurse Licensure Compact (NLC) and regulating additional out-of-state NLC nurses who practice in New Jersey; and 2) the decrease in license fee revenues from an unknown number of nurses practicing in this State who reside in other NLC states who will no longer apply for a New Jersey license.
- Annual Board of Nursing operating expenditures will increase, in part, from the payment of an annual assessment to the Interstate Commission of Nurse Licensure Compact Administrators, which is currently \$6,000 per participating state, and sending a representative to the commission’s annual meetings.
- Compact participation may result in one-time expenditures from any modification that may have to be made to nurse licensees to comply with compact requirements and the production of an evaluative report after New Jersey’s first year of compact participation.

- As the board is statutorily required to pay for its operating expenses out of its fee collections, the OLS notes that the board can be expected to adjust its license fee amounts, if necessary, to account for any significant changes in its finances as a result of joining the NLC.

BILL DESCRIPTION

This bill enters New Jersey in the multistate NLC under which member states mutually recognize the licensure privileges they grant to registered professional nurses and licensed practical nurses. Accordingly, nurses would only have to be licensed in their primary state of residence to be able to practice nursing in any NLC member state. Absent the compact, a nurse is required to be licensed separately in each state in which the nurse chooses to practice.

A nurse who practices nursing in a member state under a multistate licensure privilege is subject to the jurisdiction of the licensing board, the courts and the laws of the member state in which the nurse's client is located at the time service is provided.

The NLC establishes the Interstate Commission of Nurse Licensure Compact Administrators as a joint public instrumentality of the party states. Each party state is required to have its compact administrator, which is to be the head of the state licensing board or that individual's designee, participate as a member of the commission. The commission is required to meet at least once a year. Member state licensing boards must also pay an annual assessment to cover the commission's operating expenses.

Furthermore, the NLC establishes a coordinated licensure information system that includes a database on the licensure and disciplinary history of all nurses licensed in the party states. New Jersey would be required to submit related information to the system and to check the system for possible information on each license applicant. The system is to be administered by a nonprofit organization composed of and controlled by state nurse licensing boards.

In addition, the substitute would require that the Attorney General submit, one year after New Jersey becomes a party to the compact, a report to the Governor and the Legislature indicating whether the State's continued participation in the compact is in the best interest of the health, safety, and welfare of its citizens.

The substitute also authorizes the Legislature to withdraw New Jersey from the compact if the report submitted by the Attorney General indicates that a party state has changed its licensure requirements to make them substantially lower than the requirements of this State, or that withdrawal from the compact is in the best interest of the citizens of New Jersey.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds that the substitute will cause indeterminate increases in annual State expenditures and indeterminate decreases in annual State revenues. The OLS cannot quantify the two fiscal effects on the New Jersey Board of Nursing, given the lack of sufficient

information regarding: 1) the increase in board operating expenses from joining the NLC and regulating additional out-of-state NLC nurses who practice in New Jersey; and 2) the decrease in nursing license fee revenues to the board from nurses practicing in this State who reside in other NLC states who will no longer apply for a license in New Jersey. As the board is statutorily required to pay for its operating expenses out of its fee collections, the OLS notes that the board can be expected to adjust its license fee amounts, if necessary, to account for any significant changes in its finances as a result of joining the NLC.

Background on NLC: According to the National Council of State Boards of Nursing, the multistate compact went into effect on July 20, 2017, when 26 states had enacted the enhanced Nurse Licensure Compact (eNLC) legislation (Arkansas, Arizona, Delaware, Georgia, Florida, Idaho, Iowa, Kentucky, Maine, Maryland, Mississippi, Missouri, Montana, Nebraska, New Hampshire, North Carolina, North Dakota, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, West Virginia, and Wyoming). As of the enactment date, the eNLC commission began to meet, draft rules, policies and set an implementation date. As of January 19, 2018, nurses could practice in eNLC states that have started issuing eNLC multistate licenses.

Although New Jersey entered into a prior version of the multistate NLC through the enactment of P.L.2001, c.340 (N.J.S.A.45:11A-1 et seq.), this law expired on January 1, 2007.

Revenue Decrease: The OLS estimates that the Board of Nursing will experience an indeterminate decrease in annual nursing license fee revenues from nurses practicing in this State who reside in other NLC states who will no longer apply for a license in New Jersey.

Prior to New Jersey's participation in the 2001 NLC agreement, the Division of Consumer Affairs did not anticipate any substantial loss of license revenue to the Board of Nursing as a result of the compact. At the time, 16 percent of all nurses licensed in New Jersey were from out-of-state. Of those out-of-state residents, some 68 percent resided in New York, Pennsylvania, and Florida, which were not members of the compact. Therefore, nurses who resided in these states and practiced in New Jersey were still required to be licensed in New Jersey. Although it is unknown to the OLS where nurses licensed in New Jersey reside currently, as of January 2019, New York and Pennsylvania are still not participants in the compact, thereby limiting the reduction in annual license fee collections as a result of New Jersey joining the NLC.

Expenditure Increase: The OLS projects that the Board of Nursing will incur an indeterminate increase in annual operating expenditures as a result of joining the NLC.

In 2001, the Division of Consumer Affairs estimated that \$138,000 would be needed in the first two years of compact membership to update information and complete modifications to its nurse licenses required under the 2001 compact. The division estimated further that \$12,500 would be required annually thereafter for administrative costs associated with the compact. The OLS does not know if the modifications made to the board's nurse licenses in 2001 are sufficient, or if new modifications would need to be made to adhere to the new eNLC.

Further, under the compact, an annual assessment is required to be paid to finance the Interstate Commission of Nurse Licensure Compact Administrators. According to a National Council of the State Boards of Nursing representative, the fee is currently \$6,000 per participating state board of nursing. In addition, the New Jersey Board of Nursing would be required to send a representative to attend the annual meeting of the commission, resulting in additional travel expenses.

Finally, the Office of the Attorney General would be required to prepare a report after the first year of compact participation indicating whether the State's continued participation is in the best interest of the State. It is unknown to the OLS if due to the analysis requirement the Office

of the Attorney General may incur an indeterminate one-time expenditure increase to meet the additional workload or if the office may absorb it within its existing operating budget.

Section: Law and Public Safety

*Analyst: Kristin Brunner Santos
Senior Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

ASSEMBLY, No. 1597

STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington)

Assemblyman PAUL D. MORIARTY

District 4 (Camden and Gloucester)

Assemblywoman SHAVONDA E. SUMTER

District 35 (Bergen and Passaic)

Assemblywoman ANGELA MCKNIGHT

District 31 (Hudson)

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

Assemblywoman JOANN DOWNEY

District 11 (Monmouth)

Co-Sponsored by:

Assemblywomen Quijano, Lampitt, Pinkin, Murphy, N.Munoz, Jones and Chaparro

SYNOPSIS

Enters New Jersey in multistate Nurse Licensure Compact.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 8/28/2018)

1 AN ACT concerning the multistate Nurse Licensure Compact and
2 supplementing Title 45 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the
5 State of New Jersey:

6

7 1. The State of New Jersey enacts and enters into the Nurse
8 Licensure Compact with all other jurisdictions that legally join in
9 the compact in the form substantially as follows:

10

11 ARTICLE I: Findings and Declaration of Purpose

12

13 a. The party states find that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE II: Definitions

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As used in this Compact:

- a. “Adverse action” means any administrative, civil, equitable or criminal action permitted by a state’s laws which is imposed by a licensing board or other authority against a nurse, including actions against an individual’s license or multistate licensure privilege such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee’s practice, or any other encumbrance on licensure affecting a nurse’s authorization to practice, including issuance of a cease and desist action.
- b. “Alternative program” means a non-disciplinary monitoring program approved by a licensing board.
- c. “Coordinated licensure information system” means an integrated process for collecting, storing and sharing information on nurse licensure and enforcement activities related to nurse licensure laws that is administered by a nonprofit organization composed of and controlled by licensing boards.
- d. “Current significant investigative information” means:
 - 1. Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or
 - 2. Investigative information that indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond.
- e. “Encumbrance” means a revocation or suspension of, or any limitation on, the full and unrestricted practice of nursing imposed by a licensing board.
- f. “Home state” means the party state which is the nurse’s primary state of residence.
- g. “Licensing board” means a party state’s regulatory body responsible for issuing nurse licenses.
- h. “Multistate license” means a license to practice as a registered nurse (RN) or as a licensed practical/vocational nurse (LPN/VN), which is issued by a home state licensing board, and which authorizes the licensed nurse to practice in all party states under a multistate licensure privilege.
- i. “Multistate licensure privilege” means a legal authorization associated with a multistate license permitting the practice of nursing as either a registered nurse (RN) or a licensed practical/vocational nurse (LPN/VN) in a remote state.
- j. “Nurse” means RN or LPN/VN, as those terms are defined by each party state’s practice laws.
- k. “Party state” means any state that has adopted this Compact.
- l. “Remote state” means a party state, other than the home state.
- m. “Single-state license” means a nurse license issued by a party

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

4 n. “State” means a state, territory or possession of the United
5 States and the District of Columbia.

6 o. “State practice laws” means a party state’s laws, rules and
7 regulations that govern the practice of nursing, define the scope of
8 nursing practice, and create the methods and grounds for imposing
9 discipline. “State practice laws” do not include requirements necessary
10 to obtain and retain a license, except for qualifications or requirements
11 of the home state.

12

13 ARTICLE III: General Provisions and Jurisdiction

14

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

21 b. A state must implement procedures for considering the criminal
22 history records of applicants for an initial multistate license or licensure
23 by endorsement. Such procedures shall include the submission of
24 fingerprints or other biometric-based information by applicants for the
25 purpose of obtaining an applicant’s criminal history record information
26 from the Federal Bureau of Investigation and the agency responsible for
27 retaining that state’s criminal records.

28 c. Each party state shall require its licensing board to authorize an
29 applicant to obtain or retain a multistate license in the home state only
30 if the applicant:

31 1. Meets the home state’s qualifications for licensure or renewal of
32 licensure, and complies with all other applicable state laws;

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

35 ii. Has graduated from a foreign RN or LPN/VN prelicensure
36 education program that has been: (a) approved by the authorized
37 accrediting body in the applicable country, and (b) verified by an
38 independent credentials review agency to be comparable to a licensing
39 board-approved prelicensure education program;

40 3. Has, if a graduate of a foreign prelicensure education program
41 not taught in English or if English is not the individual’s native
42 language, successfully passed an English proficiency examination that
43 includes the components of reading, speaking, writing and listening;

44 4. Has successfully passed an NCLEX-RN or NCLEX-PN
45 Examination or recognized predecessor, as applicable;

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

47 6. Has submitted, in connection with an application for initial
48 licensure or licensure by endorsement, fingerprints or other biometric

- 1 data for the purpose of obtaining criminal history record information
2 from the Federal Bureau of Investigation and the agency responsible for
3 retaining that state's criminal records;
- 4 7. Has not been convicted or found guilty, or has entered into an
5 agreed disposition, of a felony offense under applicable state or federal
6 criminal law;
- 7 8. Has not been convicted or found guilty, or has entered into an
8 agreed disposition, of a misdemeanor offense related to the practice of
9 nursing as determined on a case-by-case basis;
- 10 9. Is not currently enrolled in an alternative program;
- 11 10. Is subject to self-disclosure requirements regarding current
12 participation in an alternative program; and
- 13 11. Has a valid United States Social Security number.
- 14 d. All party states shall be authorized, in accordance with existing
15 state due process law, to take adverse action against a nurse's
16 multistate licensure privilege such as revocation, suspension,
17 probation or any other action that affects a nurse's authorization to
18 practice under a multistate licensure privilege, including cease and
19 desist actions. If a party state takes such action, it shall promptly notify
20 the administrator of the coordinated licensure information system. The
21 administrator of the coordinated licensure information system shall
22 promptly notify the home state of any such actions by remote states.
- 23 e. A nurse practicing in a party state must comply with the state
24 practice laws of the state in which the client is located at the time
25 service is provided. The practice of nursing is not limited to patient
26 care, but shall include all nursing practice as defined by the state
27 practice laws of the party state in which the client is located. The
28 practice of nursing in a party state under a multistate licensure privilege
29 will subject a nurse to the jurisdiction of the licensing board, the courts
30 and the laws of the party state in which the client is located at the time
31 service is provided.
- 32 f. Individuals not residing in a party state shall continue to be able
33 to apply for a party state's single-state license as provided under the
34 laws of each party state. However, the single-state license granted to
35 these individuals will not be recognized as granting the privilege to
36 practice nursing in any other party state. Nothing in this Compact shall
37 affect the requirements established by a party state for the issuance of a
38 single-state license.
- 39 g. Any nurse holding a home state multistate license, on the
40 effective date of this Compact, may retain and renew the multistate
41 license issued by the nurse's then-current home state, provided that:
- 42 1. A nurse, who changes primary state of residence after this
43 Compact's effective date, must meet all applicable Article III.c.
44 requirements to obtain a multistate license from a new home state.
- 45 2. A nurse who fails to satisfy the multistate licensure
46 requirements in Article III.c. due to a disqualifying event occurring
47 after this Compact's effective date shall be ineligible to retain or renew
48 a multistate license, and the nurse's multistate license shall be revoked

1 or deactivated in accordance with applicable rules adopted by the
2 Interstate Commission of Nurse Licensure Compact Administrators
3 (“Commission”).
4

5 ARTICLE IV: Applications for Licensure in a Party State
6

7 a. Upon application for a multistate license, the licensing board in
8 the issuing party state shall ascertain, through the coordinated licensure
9 information system, whether the applicant has ever held, or is the
10 holder of, a license issued by any other state, whether there are any
11 encumbrances on any license or multistate licensure privilege held by
12 the applicant, whether any adverse action has been taken against any
13 license or multistate licensure privilege held by the applicant and
14 whether the applicant is currently participating in an alternative
15 program.

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

18 c. If a nurse changes primary state of residence by moving
19 between two party states, the nurse must apply for licensure in the new
20 home state, and the multistate license issued by the prior home state
21 will be deactivated in accordance with applicable rules adopted by the
22 Commission.

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

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

29 d. If a nurse changes primary state of residence by moving from a
30 party state to a non-party state, the multistate license issued by the
31 prior home state will convert to a single-state license, valid only in the
32 former home state.
33

34 ARTICLE V: Additional Authorities Invested in Party State Licensing
35 Boards
36

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

39 1. Take adverse action against a nurse’s multistate licensure
40 privilege to practice within that party state.

41 i. Only the home state shall have the power to take adverse action
42 against a nurse’s license issued by the home state.

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

48 2. Issue cease and desist orders or impose an encumbrance on a

1 nurse's authority to practice within that party state.

2 3. Complete any pending investigations of a nurse who changes
3 primary state of residence during the course of such investigations. The
4 licensing board shall also have the authority to take appropriate
5 action(s) and shall promptly report the conclusions of such
6 investigations to the administrator of the coordinated licensure
7 information system. The administrator of the coordinated licensure
8 information system shall promptly notify the new home state of any
9 such actions.

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

21 5. Obtain and submit, for each nurse licensure applicant,
22 fingerprint or other biometric-based information to the Federal Bureau
23 of Investigation for criminal background checks, receive the results of
24 the Federal Bureau of Investigation record search on criminal
25 background checks and use the results in making licensure decisions.

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

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

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

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

44

45 ARTICLE VI: Coordinated Licensure Information System and
46 Exchange of Information

47

48 a. All party states shall participate in a coordinated licensure

- 1 information system of all licensed registered nurses (RNs) and licensed
2 practical/vocational nurses (LPNs/VNs). This system will include
3 information on the licensure and disciplinary history of each nurse, as
4 submitted by party states, to assist in the coordination of nurse licensure
5 and enforcement efforts.
- 6 b. The Commission, in consultation with the administrator of the
7 coordinated licensure information system, shall formulate necessary
8 and proper procedures for the identification, collection and exchange of
9 information under this Compact.
- 10 c. All licensing boards shall promptly report to the coordinated
11 licensure information system any adverse action, any current significant
12 investigative information, denials of applications (with the reasons for
13 such denials) and nurse participation in alternative programs known to
14 the licensing board regardless of whether such participation is deemed
15 nonpublic or confidential under state law.
- 16 d. Current significant investigative information and participation in
17 nonpublic or confidential alternative programs shall be transmitted
18 through the coordinated licensure information system only to party
19 state licensing boards.
- 20 e. Notwithstanding any other provision of law, all party state
21 licensing boards contributing information to the coordinated licensure
22 information system may designate information that may not be shared
23 with non-party states or disclosed to other entities or individuals
24 without the express permission of the contributing state.
- 25 f. Any personally identifiable information obtained from the
26 coordinated licensure information system by a party state licensing
27 board shall not be shared with non-party states or disclosed to other
28 entities or individuals except to the extent permitted by the laws of the
29 party state contributing the information.
- 30 g. Any information contributed to the coordinated licensure
31 information system that is subsequently required to be expunged by the
32 laws of the party state contributing that information shall also be
33 expunged from the coordinated licensure information system.
- 34 h. The Compact administrator of each party state shall furnish a
35 uniform data set to the Compact administrator of each other party state,
36 which shall include, at a minimum:
- 37 1. Identifying information;
 - 38 2. Licensure data;
 - 39 3. Information related to alternative program participation; and
 - 40 4. Other information that may facilitate the administration of this
41 Compact, as determined by Commission rules.
- 42 i. The Compact administrator of a party state shall provide all
43 investigative documents and information requested by another party
44 state.

1 ARTICLE VII: Establishment of the Interstate Commission of Nurse
2 Licensure Compact Administrators
3

4 a. The party states hereby create and establish a joint public entity
5 known as the Interstate Commission of Nurse Licensure Compact
6 Administrators.

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

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

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

16 b. Membership, Voting and Meetings

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

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

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

34 4. All meetings shall be open to the public, and public notice of
35 meetings shall be given in the same manner as required under the
36 rulemaking provisions in Article VIII.

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

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

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

45 iii. Current, threatened or reasonably anticipated litigation;

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

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

- 1 person;
- 2 vi. Disclosure of trade secrets or commercial or financial
3 information that is privileged or confidential;
- 4 vii. Disclosure of information of a personal nature where disclosure
5 would constitute a clearly unwarranted invasion of personal privacy;
- 6 viii. Disclosure of investigatory records compiled for law
7 enforcement purposes;
- 8 ix. Disclosure of information related to any reports prepared by or
9 on behalf of the Commission for the purpose of investigation of
10 compliance with this Compact; or
- 11 x. Matters specifically exempted from disclosure by federal or
12 state statute.
- 13 6. If a meeting, or portion of a meeting, is closed pursuant to this
14 provision, the Commission's legal counsel or designee shall certify that
15 the meeting may be closed and shall reference each relevant exempting
16 provision. The Commission shall keep minutes that fully and clearly
17 describe all matters discussed in a meeting and shall provide a full and
18 accurate summary of actions taken, and the reasons therefor, including
19 a description of the views expressed. All documents considered in
20 connection with an action shall be identified in such minutes. All
21 minutes and documents of a closed meeting shall remain under seal,
22 subject to release by a majority vote of the Commission or order of a
23 court of competent jurisdiction.
- 24 c. The Commission shall, by a majority vote of the administrators,
25 prescribe bylaws or rules to govern its conduct as may be necessary or
26 appropriate to carry out the purposes and exercise the powers of this
27 Compact, including but not limited to:
- 28 1. Establishing the fiscal year of the Commission;
- 29 2. Providing reasonable standards and procedures:
- 30 i. For the establishment and meetings of other committees; and
- 31 ii. Governing any general or specific delegation of any authority or
32 function of the Commission;
- 33 3. Providing reasonable procedures for calling and conducting
34 meetings of the Commission, ensuring reasonable advance notice of all
35 meetings and providing an opportunity for attendance of such meetings
36 by interested parties, with enumerated exceptions designed to protect
37 the public's interest, the privacy of individuals, and proprietary
38 information, including trade secrets. The Commission may meet in
39 closed session only after a majority of the administrators vote to close a
40 meeting in whole or in part. As soon as practicable, the Commission
41 must make public a copy of the vote to close the meeting revealing the
42 vote of each administrator, with no proxy votes allowed;
- 43 4. Establishing the titles, duties and authority and reasonable
44 procedures for the election of the officers of the Commission;
- 45 5. Providing reasonable standards and procedures for the
46 establishment of the personnel policies and programs of the
47 Commission. Notwithstanding any civil service or other similar laws
48 of any party state, the bylaws shall exclusively govern the personnel

- 1 policies and programs of the Commission; and
- 2 6. Providing a mechanism for winding up the operations of the
3 Commission and the equitable disposition of any surplus funds that
4 may exist after the termination of this Compact after the payment or
5 reserving of all of its debts and obligations;
- 6 d. The Commission shall publish its bylaws and rules, and any
7 amendments thereto, in a convenient form on the website of the
8 Commission.
- 9 e. The Commission shall maintain its financial records in
10 accordance with the bylaws.
- 11 f. The Commission shall meet and take such actions as are
12 consistent with the provisions of this Compact and the bylaws.
- 13 g. The Commission shall have the following powers:
- 14 1. To promulgate uniform rules to facilitate and coordinate
15 implementation and administration of this Compact. The rules shall
16 have the force and effect of law and shall be binding in all party states;
- 17 2. To bring and prosecute legal proceedings or actions in the name
18 of the Commission, provided that the standing of any licensing board to
19 sue or be sued under applicable law shall not be affected;
- 20 3. To purchase and maintain insurance and bonds;
- 21 4. To borrow, accept or contract for services of personnel,
22 including, but not limited to, employees of a party state or nonprofit
23 organizations;
- 24 5. To cooperate with other organizations that administer state
25 compacts related to the regulation of nursing, including but not limited
26 to sharing administrative or staff expenses, office space or other
27 resources;
- 28 6. To hire employees, elect or appoint officers, fix compensation,
29 define duties, grant such individuals appropriate authority to carry out
30 the purposes of this Compact, and to establish the Commission's
31 personnel policies and programs relating to conflicts of interest,
32 qualifications of personnel and other related personnel matters;
- 33 7. To accept any and all appropriate donations, grants and gifts of
34 money, equipment, supplies, materials and services, and to receive,
35 utilize and dispose of the same; provided that at all times the
36 Commission shall avoid any appearance of impropriety or conflict of
37 interest;
- 38 8. To lease, purchase, accept appropriate gifts or donations of, or
39 otherwise to own, hold, improve or use, any property, whether real,
40 personal or mixed; provided that at all times the Commission shall
41 avoid any appearance of impropriety;
- 42 9. To sell, convey, mortgage, pledge, lease, exchange, abandon or
43 otherwise dispose of any property, whether real, personal or mixed;
- 44 10. To establish a budget and make expenditures;
- 45 11. To borrow money;
- 46 12. To appoint committees, including advisory committees
47 comprised of administrators, state nursing regulators, state legislators or
48 their representatives, and consumer representatives, and other such

1 interested persons;

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

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

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

8 h. Financing of the Commission

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

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

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

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

29 i. Qualified Immunity, Defense and Indemnification

30 1. The administrators, officers, executive director, employees and
31 representatives of the Commission shall be immune from suit and
32 liability, either personally or in their official capacity, for any claim for
33 damage to or loss of property or personal injury or other civil liability
34 caused by or arising out of any actual or alleged act, error or omission
35 that occurred, or that the person against whom the claim is made had a
36 reasonable basis for believing occurred, within the scope of
37 Commission employment, duties or responsibilities; provided that
38 nothing in this paragraph shall be construed to protect any such person
39 from suit or liability for any damage, loss, injury or liability caused by
40 the intentional, willful or wanton misconduct of that person.

41 2. The Commission shall defend any administrator, officer,
42 executive director, employee or representative of the Commission in
43 any civil action seeking to impose liability arising out of any actual or
44 alleged act, error or omission that occurred within the scope of
45 Commission employment, duties or responsibilities, or that the person
46 against whom the claim is made had a reasonable basis for believing
47 occurred within the scope of Commission employment, duties or
48 responsibilities; provided that nothing herein shall be construed to

1 prohibit that person from retaining his or her own counsel; and
2 provided further that the actual or alleged act, error or omission did not
3 result from that person's intentional, willful or wanton misconduct.

4 3. The Commission shall indemnify and hold harmless any
5 administrator, officer, executive director, employee or representative of
6 the Commission for the amount of any settlement or judgment
7 obtained against that person arising out of any actual or alleged act,
8 error or omission that occurred within the scope of Commission
9 employment, duties or responsibilities, or that such person had a
10 reasonable basis for believing occurred within the scope of Commission
11 employment, duties or responsibilities, provided that the actual or
12 alleged act, error or omission did not result from the intentional, willful
13 or wanton misconduct of that person.

14
15 ARTICLE VIII: Rulemaking
16

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

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

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

- 28 1. On the website of the Commission; and
29 2. On the website of each licensing board or the publication in
30 which each state would otherwise publish proposed rules.

31 d. The notice of proposed rulemaking shall include:

- 32 1. The proposed time, date and location of the meeting in which
33 the rule will be considered and voted upon;
34 2. The text of the proposed rule or amendment, and the reason for
35 the proposed rule;

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

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

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

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

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

48 1. Hearings shall be conducted in a manner providing each person

1 who wishes to comment a fair and reasonable opportunity to comment
2 orally or in writing. All hearings will be recorded, and a copy will be
3 made available upon request.

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

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

9 i. Following the scheduled hearing date, or by the close of
10 business on the scheduled hearing date if the hearing was not held, the
11 Commission shall consider all written and oral comments received.

12 j. The Commission shall, by majority vote of all administrators,
13 take final action on the proposed rule and shall determine the effective
14 date of the rule, if any, based on the rulemaking record and the full text
15 of the rule.

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

- 24 1. Meet an imminent threat to public health, safety or welfare;
- 25 2. Prevent a loss of Commission or party state funds; or
- 26 3. Meet a deadline for the promulgation of an administrative rule
27 that is required by federal law or rule.

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

40

41 ARTICLE IX: Oversight, Dispute Resolution and Enforcement

42

43 a. Oversight

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

47 2. The Commission shall be entitled to receive service of process
48 in any proceeding that may affect the powers, responsibilities or actions

1 of the Commission, and shall have standing to intervene in such a
2 proceeding for all purposes. Failure to provide service of process in
3 such proceeding to the Commission shall render a judgment or order
4 void as to the Commission, this Compact or promulgated rules.

5 b. Default, Technical Assistance and Termination

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

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

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

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

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

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

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

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

40 c. Dispute Resolution

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

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

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

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

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

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

7 d. Enforcement

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

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

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

21
22 ARTICLE X: Effective Date, Withdrawal and Amendment

23
24 a. This Compact shall become effective and binding on the
25 earlier of the date of legislative enactment of this Compact into law by
26 no less than twenty-six (26) states or December 31, 2018. All party
27 states to this Compact, that also were parties to the prior Nurse
28 Licensure Compact, superseded by this Compact, ("Prior Compact"),
29 shall be deemed to have withdrawn from said Prior Compact within
30 six (6) months after the effective date of this Compact.

31 b. Each party state to this Compact shall continue to recognize a
32 nurse's multistate licensure privilege to practice in that party state
33 issued under the Prior Compact until such party state has withdrawn
34 from the Prior Compact.

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

38 d. A party state's withdrawal or termination shall not affect the
39 continuing requirement of the withdrawing or terminated state's
40 licensing board to report adverse actions and significant investigations
41 occurring prior to the effective date of such withdrawal or termination.

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

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

1 states.

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

5

6

ARTICLE XI: Construction and Severability

7

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

20

21 2. a. A State licensed nurse whose license is under suspension
22 or under probation by the New Jersey Board of Nursing, or who is
23 participating in an established treatment program which is an
24 alternative to disciplinary action, shall not practice in any other
25 party state during the term of the suspension, probation, or
26 participation without prior authorization from the other party state.
27 The board may revoke the State license of a nurse under suspension,
28 probation, or participation who practices nursing in another party
29 state without prior authorization from that state.

30 b. The multistate licensure privilege granted by this State
31 pursuant to the compact is subject to revocation or other
32 disciplinary action as the result of any disciplinary action imposed
33 by a nurse's home state.

34

35 3. This compact is intended to facilitate regulation of the
36 practice of nursing, and it does not relieve an employer from
37 complying with contractually or statutorily imposed obligations, or
38 with collectively bargained agreements.

39

40 4. a. This compact shall not abrogate or supersede any
41 provision in Title 45 of the Revised Statutes, or in any other title or
42 chapter of law applicable to the practice of nursing in this State.

43 b. Omissions in this compact shall not be supplied by
44 construction. In any instance of an omission from the compact, the
45 remaining provisions of Title 45 of the Revised Statutes or other
46 applicable statutory law, and any regulations adopted pursuant
47 thereto, shall control.

1 5. This compact shall not abrogate or supersede any provision
2 in Title 34 of the Revised Statutes, or in any other title or chapter of
3 law applicable to labor practices, workforce strikes, or the
4 resolution of labor disputes in this State.

5
6 6. Any investigative or disciplinary powers conferred on the
7 Attorney General, the Director of the Division of Consumer Affairs
8 in the Department of Law and Public Safety, and the New Jersey
9 Board of Nursing under the provisions of P.L.1978, c.73 (C.45:1-14
10 et seq.) or other law, or under regulations adopted pursuant thereto,
11 shall not be interpreted as being limited in any way by the terms of
12 the compact, and shall be available in any investigation of the
13 conduct of, or disciplinary action undertaken against, a remote state
14 licensee practicing in New Jersey or a New Jersey home state
15 licensee.

16
17 7. Nothing in Article VII of the compact shall be deemed to
18 waive or abrogate in any way any defense or immunity of a public
19 entity or public employee under the common law or statutory law
20 including, but not limited to, the "New Jersey Tort Claims Act,"
21 N.J.S.59:1-1 et seq.

22
23 8. One year after New Jersey becomes a party to the compact, as
24 provided by this act, the Attorney General shall submit a report to
25 the Governor and, pursuant to section 2 of P.L.1991, c.164
26 (C.52:14-19.1), to the Legislature, evaluating whether the State's
27 continued participation in the compact is in the best interest of the
28 health, safety, and welfare of its citizens. At a minimum, the report
29 shall: (1) describe the beneficial and detrimental effects, evidenced
30 during the preceding year, which have resulted from the State's
31 participation in the compact; (2) describe any potential long-term
32 effects that have not yet been experienced, but which are likely to
33 result from the State's continued participation in the compact; (3)
34 indicate whether any other party state has changed its licensure
35 requirements in the preceding year to make them less stringent than
36 the requirements in this State; and (4) provide a recommendation as
37 to whether the State should remain a party to the compact.

38 b. The Legislature may withdraw this State from the compact if
39 the report submitted by the Attorney General, pursuant to
40 subsection a. of this section, indicates that another party state has
41 changed its licensure requirements to make them substantially lower
42 than the requirements of this State, or that withdrawal from the
43 compact is in the best interests of the health, safety, and welfare of
44 the citizens of this State.

45
46 9. This act shall take effect immediately.

STATEMENT

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This bill will enter New Jersey into the Nurse Licensure Compact (NLC) – a multistate compact that establishes a mutual recognition system for the licensure of registered professional nurses and licensed practical nurses. Under a mutual recognition system, a nurse only needs to obtain one license from the nurse's state of residence in order to be permitted to practice nursing in any other state that is a party to the compact, provided that the nurse complies with the state practice laws of the state in which the patient is located at the time that care is rendered. Currently, a nurse is required to be licensed in, and by, each state in which the nurse chooses to practice.

Under the NLC, a nurse who applies for licensure will be required to meet the qualifications for licensure and license renewal that have been established in the nurse's state of residence. Although a nurse may be licensed in one or more states that are not a party to the compact, a nurse may only be licensed in one state that is a party to the compact. The NLC will authorize a state that is a party to the compact to limit, suspend, or revoke the multistate licensure privilege of any nurse to practice in that state, and to take any other actions under the applicable state laws that may be necessary to protect the health and safety of the citizens of the party state.

The NLC will also establish a coordinated licensure information system that will include a database on the licensure and disciplinary history of all nurses licensed in the party states. The party states will be required to report to the coordinated system all adverse actions against nurses, including actions against multistate licensure privileges, any current significant investigative information yet to result in an adverse action, and denials of applications and the reasons therefor. This information will be shared with party states unless the state submitting the information designates information that may not be shared or disclosed without the permission of the contributing state. The coordinated licensure information system is to be administered by a nonprofit organization composed of and controlled by state nurse licensing boards.

The NLC will also establish the Interstate Commission of Nurse Licensure Compact Administrators as a joint public instrumentality of the party states. However, nothing in the compact is to be construed as a waiver of sovereign immunity. Each party state will be required to have its compact administrator, which is to be the head of the state licensing board, or that individual's designee, participate as a member of the commission. The commission will be required to meet at least once a year.

The compact grants the commission broad powers to: (1) promulgate uniform rules, which will have the effect of law, in order to facilitate and coordinate implementation and administration of the compact in the party states; (2) bring and prosecute legal proceedings in the name of the commission; (3) appoint advisory and other

1 committees comprised of administrators, state nursing regulators, state
2 legislators, consumer representatives, and other interested parties; and
3 (4) cooperate with other organizations that administer state compacts
4 related to the practice of nursing. The commission will further be
5 authorized to identify defaults in the performance of a party state in
6 meeting its obligations or responsibilities under the compact; to
7 provide training and technical assistance to a party state in order to
8 assist the party state in curing any defaults; and to terminate a
9 defaulting party state's membership in the compact if all means of
10 securing compliance have been exhausted. The compact also
11 authorizes the commission to levy, and collect from each party state,
12 an annual assessment to cover the cost of commission operations,
13 activities, and staff. All of the administrators, officers, employees,
14 representatives, and the executive director of the commission will be
15 immune from liability, either personally or in their official capacities,
16 for any civil claims arising out of any actual or alleged act, error, or
17 omission that occurred, or that the accused had a reasonable basis for
18 believing had occurred, within the scope of commission employment,
19 duties, or responsibilities, except in the case of intentional, willful, or
20 wanton misconduct.

21 Nothing in the NLC will abrogate or supersede the provisions of
22 Title 45 of the Revised Statutes or any other title or chapter of law
23 applicable to the practice of nursing in this State. In any instance of an
24 omission from the compact, the provisions of Title 45 of the Revised
25 Statutes or other applicable statutory or regulatory law will be
26 controlling. Nothing in the NLC will abrogate or supersede the
27 provisions in Title 34 of the Revised Statutes, or in any other title or
28 chapter of law applicable to labor practices, workforce strikes, or the
29 resolution of labor disputes in this State.

30 The bill requires the Attorney General to submit a report to the
31 Governor and to the Legislature, one year after New Jersey becomes a
32 party to the compact, evaluating whether the State's continued
33 participation in the compact is in the best interest of the health, safety,
34 and welfare of its citizens. At a minimum, the report is to: (1) describe
35 the beneficial and detrimental effects resulting from the State's
36 participation in the compact; (2) describe any potential long-term
37 effects that are likely to result from the State's continued participation
38 in the compact; (3) indicate whether any other party state has changed
39 its licensure requirements in the preceding year to make them less
40 stringent than the requirements in New Jersey; and (4) provide a
41 recommendation as to whether the State should remain a party to the
42 compact. The Legislature will be permitted to withdraw the State from
43 the compact if the Attorney General's report indicates that another
44 party state has changed its licensure requirements to make them
45 substantially lower than the requirements of New Jersey, or that
46 withdrawal from the compact is in the best interests of the health,
47 safety, and welfare of the citizens of New Jersey.

48 As of October 2015, 25 states, including Maryland and Delaware,

1 have enacted legislation agreeing to participate in the NLC. The NLC
2 provides that it will become effective and binding on the party states
3 either on the date that the NLC is enacted into law by at least 26 states,
4 or on December 31, 2018, whichever is earlier.

5 Although New Jersey entered into a prior version of the multistate
6 NLC through the enactment of P.L.2001, c.340 (C.45:11A-1 et seq.),
7 this law was temporary in nature and expired on January 1, 2007. The
8 National Council of State Boards of Nursing has since adopted a
9 revised version of the compact. Accordingly, the bill incorporates the
10 updated provisions of the NLC, as adopted by the National Council of
11 State Boards of Nursing on May 4, 2015.

ASSEMBLY HEALTH AND SENIOR SERVICES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1597

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 17, 2019

The Assembly Health and Senior Services Committee reports favorably and with committee amendments Assembly Bill No. 1597.

This bill will enter New Jersey into the Nurse Licensure Compact (NLC) – a multistate compact that establishes a mutual recognition system for the licensure of registered professional nurses and licensed practical nurses. Under a mutual recognition system, a nurse only needs to obtain one license from the nurse's state of residence in order to be permitted to practice nursing in any other state that is a party to the compact, provided that the nurse complies with the state practice laws of the state in which the patient is located at the time that care is rendered. Currently, a nurse is required to be licensed in, and by, each state in which the nurse chooses to practice.

Under the NLC, a nurse who applies for licensure will be required to meet the qualifications for licensure and license renewal that have been established in the nurse's state of residence. Although a nurse may be licensed in one or more states that are not a party to the compact, a nurse may only be licensed in one state that is a party to the compact. The NLC will authorize a state that is a party to the compact to limit, suspend, or revoke the multistate licensure privilege of any nurse to practice in that state, and to take any other actions under the applicable state laws that may be necessary to protect the health and safety of the citizens of the party state.

The NLC will also establish a coordinated licensure information system that will include a database on the licensure and disciplinary history of all nurses licensed in the party states. The party states will be required to report to the coordinated system all adverse actions against nurses, including actions against multistate licensure privileges, any current significant investigative information yet to result in an adverse action, and denials of applications and the reasons therefor. This information will be shared with party states unless the state submitting the information designates information that may not be shared or disclosed without the permission of the contributing state. The coordinated licensure information system is to be administered by a nonprofit organization composed of and controlled by state nurse licensing boards.

The NLC will also establish the Interstate Commission of Nurse

Licensure Compact Administrators as a joint public instrumentality of the party states. However, nothing in the compact is to be construed as a waiver of sovereign immunity. Each party state will be required to have its compact administrator, which is to be the head of the state licensing board, or that individual's designee, participate as a member of the commission. The commission will be required to meet at least once a year.

The compact grants the commission broad powers to: (1) promulgate uniform rules, which will have the effect of law, in order to facilitate and coordinate implementation and administration of the compact in the party states; (2) bring and prosecute legal proceedings in the name of the commission; (3) appoint advisory and other committees comprised of administrators, state nursing regulators, state legislators, consumer representatives, and other interested parties; and (4) cooperate with other organizations that administer state compacts related to the practice of nursing. The commission will further be authorized to identify defaults in the performance of a party state in meeting its obligations or responsibilities under the compact; to provide training and technical assistance to a party state in order to assist the party state in curing any defaults; and to terminate a defaulting party state's membership in the compact if all means of securing compliance have been exhausted. The compact also authorizes the commission to levy, and collect from each party state, an annual assessment to cover the cost of commission operations, activities, and staff. All of the administrators, officers, employees, representatives, and the executive director of the commission will be immune from liability, either personally or in their official capacities, for any civil claims arising out of any actual or alleged act, error, or omission that occurred, or that the accused had a reasonable basis for believing had occurred, within the scope of commission employment, duties, or responsibilities, except in the case of intentional, willful, or wanton misconduct.

Nothing in the NLC will abrogate or supersede the provisions of Title 45 of the Revised Statutes or any other title or chapter of law applicable to the practice of nursing in this State. In any instance of an omission from the compact, the provisions of Title 45 of the Revised Statutes or other applicable statutory or regulatory law will be controlling. Nothing in the NLC will abrogate or supersede the provisions in Title 34 of the Revised Statutes, or in any other title or chapter of law applicable to labor practices, workforce strikes, or the resolution of labor disputes in this State.

The bill requires the Attorney General to submit a report to the Governor and to the Legislature, one year after New Jersey becomes a party to the compact, evaluating whether the State's continued participation in the compact is in the best interest of the health, safety, and welfare of its citizens. At a minimum, the report is to: (1) describe the beneficial and detrimental effects resulting from the State's participation in the compact; (2) describe any potential long-term

effects that are likely to result from the State's continued participation in the compact; (3) indicate whether any other party state has changed its licensure requirements in the preceding year to make them less stringent than the requirements in New Jersey; and (4) provide a recommendation as to whether the State should remain a party to the compact. The Legislature will be permitted to withdraw the State from the compact if the Attorney General's report indicates that another party state has changed its licensure requirements to make them substantially lower than the requirements of New Jersey, or that withdrawal from the compact is in the best interests of the health, safety, and welfare of the citizens of New Jersey.

As of October 2015, 25 states, including Maryland and Delaware, have enacted legislation agreeing to participate in the NLC. The NLC provides that it will become effective and binding on the party states either on the date that the NLC is enacted into law by at least 26 states, or on December 31, 2018, whichever is earlier.

Although New Jersey entered into a prior version of the multistate NLC through the enactment of P.L.2001, c.340 (C.45:11A-1 et seq.), this law was temporary in nature and expired on January 1, 2007. The National Council of State Boards of Nursing has since adopted a revised version of the compact. Accordingly, the bill incorporates the updated provisions of the NLC, as adopted by the National Council of State Boards of Nursing on May 4, 2015.

This bill was pre-filed for introduction in the 2018-2019 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS:

The committee amendments expand the definition of "current significant investigative information" to include any information concerning a nurse reported to a licensing board by a health care entity, health care professional, or any other person, which indicates that the nurse demonstrated an impairment, gross incompetence, or unprofessional conduct that would present an imminent danger to a patient or the public health, safety, or welfare.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 1597

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 20, 2019

The Assembly Appropriations Committee reports favorably Assembly Bill No. 1597 (1R), with committee amendments.

This bill, as amended, would enter New Jersey in the enhanced multistate Nurse Licensure Compact (eNLC), which was implemented as of January 19, 2018.

The eNLC provides for a mutual recognition model of nurse licensure (for registered professional nurses and licensed practical nurses), in which a nurse only needs to obtain one license from the nurse's state of residence in order to be permitted to practice nursing in any other state that is a party to the compact, as long as the nurse complies with the state practice laws of the state in which the patient is located at the time that care is rendered. Currently, a nurse is required to be licensed in, and by, each state in which the nurse chooses to practice.

Under the eNLC, a nurse who applies for licensure is required to meet the qualifications for licensure and license renewal of the nurse's state of residence. While a nurse may be licensed in any state or states that are not parties to the compact, a nurse may only be licensed in one state that is a party to the compact. The eNLC authorizes a state that is a party to the compact to limit, suspend, or revoke the multistate licensure privilege of any nurse to practice in that state and may take any other actions under the applicable state laws necessary to protect the health and safety of the citizens of the party state. All party states are authorized to take actions against a nurse's privileges to practice in the state, including, suspension, revocation, or probation.

The eNLC also establishes a coordinated licensure information system that will include a database on the licensure and disciplinary history of all nurses licensed in the party states. The party states will be required to report to the coordinated system all adverse actions against nurses, including actions against multistate licensure privileges, any current significant investigative information yet to result in an adverse action, and denials of applications and the reasons for the denials. This information will be shared with party states unless the state submitting the information designates information that may

not be shared or disclosed without the permission of the contributing state. The coordinated licensure information system is to be administered by a nonprofit organization composed of and controlled by state nurse licensing boards.

The eNLC is intended to address the expanded mobility of nurses and the use of advanced communication technologies (telemedicine) by nurses, which requires greater coordination and cooperation among states in the areas of nurse licensure and regulation. The eNLC also is intended to facilitate the exchange of information between states in the area of nurse regulation, investigation and adverse actions.

The eNLC will also establish the Interstate Commission of Nurse Licensure Compact Administrators as a joint public instrumentality of the party states. However, nothing in the compact is to be construed as a waiver of sovereign immunity. Each party state will be required to have its compact administrator, which is to be the head of the state licensing board, or that individual's designee, participate as a member of the commission. The commission will be required to meet at least once a year.

The compact grants the commission broad powers to: (1) promulgate uniform rules, which will have the effect of law, in order to facilitate and coordinate implementation and administration of the compact in the party states; (2) bring and prosecute legal proceedings in the name of the commission; (3) appoint advisory and other committees comprised of administrators, state nursing regulators, state legislators, consumer representatives, and other interested parties; and (4) cooperate with other organizations that administer state compacts related to the practice of nursing. The commission will further be authorized to identify defaults in the performance of a party state in meeting its obligations or responsibilities under the compact; to provide training and technical assistance to a party state in order to assist the party state in curing any defaults; and to terminate a defaulting party state's membership in the compact if all means of securing compliance have been exhausted. The compact also authorizes the commission to levy, and collect from each party state, an annual assessment to cover the cost of commission operations, activities, and staff. All of the administrators, officers, employees, representatives, and the executive director of the commission will be immune from liability, either personally or in their official capacities, for any civil claims arising out of any actual or alleged act, error, or omission that occurred, or that the accused had a reasonable basis for believing had occurred, within the scope of commission employment, duties, or responsibilities, except in the case of intentional, willful, or wanton misconduct.

The bill requires the Attorney General to submit a report to the Governor and to the Legislature, one year after New Jersey becomes a party to the compact, evaluating whether the State's continued participation in the compact is in the best interest of the health, safety,

and welfare of its citizens. At a minimum, the report is to: (1) describe the beneficial and detrimental effects resulting from the State's participation in the compact; (2) describe any potential long-term effects that are likely to result from the State's continued participation in the compact; (3) indicate whether any other party state has changed its licensure requirements in the preceding year to make them less stringent than the requirements in New Jersey; and (4) provide a recommendation as to whether the State should remain a party to the compact. The Legislature may withdraw the State from the compact if the Attorney General's report indicates that another party state has changed its licensure requirements to make them substantially lower than the requirements of New Jersey, or that withdrawal from the compact is in the best interests of the health, safety, and welfare of the citizens of New Jersey.

New Jersey entered into a prior version of the multistate NLC through the enactment of P.L.2001, c.340 (C.45:11A-1 et seq.). However, that law was temporary in nature and expired on January 1, 2007, without being implemented. The National Council of State Boards of Nursing has since adopted a revised version of the compact, known as the enhanced compact. Accordingly, the bill incorporates the provisions of the enhanced NLC, as adopted by the National Council of State Boards of Nursing on May 4, 2015, and implemented on January 19, 2018, with 29 member states as of that date.

As reported, this bill is identical to the Senate Committee Substitute for Bill Nos. 954 and 1699 (1R), as also reported by the committee.

COMMITTEE AMENDMENTS:

The amendments remove language from section 2 that is unnecessary under the provisions of the enhanced compact, and delete sections 4 and 5, which provided that the compact would not abrogate or supersede the provisions of Title 45 and Title 34 of the Revised Statutes or in any other law applicable to the practice of nursing in this State, or to labor practices, workforce strikes, or the resolution of labor disputes.

FISCAL IMPACT:

The Office of Legislative Services (OLS) finds that the bill will cause indeterminate increases in annual State expenditures and indeterminate decreases in annual State revenues. The OLS cannot quantify the two fiscal effects on the Board of Nursing, given the lack of sufficient information regarding: 1) the increase in board operating expenses from joining the Nurse Licensure Compact (NLC) and regulating additional out-of-state NLC nurses who practice in New Jersey; and 2) the decrease in license fee revenues from an unknown number of nurses practicing in this State who reside in other NLC states who will no longer apply for a New Jersey license.

Annual Board of Nursing operating expenditures will increase, in part, from the payment of an annual assessment to the Interstate Commission of Nurse Licensure Compact Administrators, which is currently \$6,000 per participating state, and sending a representative to the commission's annual meetings.

Compact participation may result in one-time expenditures from any modification that may have to be made to nurse licensees to comply with compact requirements and the production of an evaluative report after New Jersey's first year of compact participation.

As the board is statutorily required to pay for its operating expenses out of its fee collections, the OLS notes that the board can be expected to adjust its license fee amounts, if necessary, to account for any significant changes in its finances as a result of joining the NLC.

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

ASSEMBLY, No. 1597

STATE OF NEW JERSEY 218th LEGISLATURE

DATED: MAY 29, 2019

SUMMARY

- Synopsis:** Enters New Jersey in multistate Nurse Licensure Compact.
- Type of Impact:** Annual State Expenditure Increase and State Revenue Decrease.
- Agencies Affected:** Department of Law and Public Safety (Board of Nursing).

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
Annual State Cost Increase		Indeterminate	
Annual State Revenue Decrease		Indeterminate	

- The Office of Legislative Services (OLS) finds that the bill will cause indeterminate increases in annual State expenditures and indeterminate decreases in annual State revenues. The OLS cannot quantify the two fiscal effects on the Board of Nursing, given the lack of sufficient information regarding: 1) the increase in board operating expenses from joining the Nurse Licensure Compact (NLC) and regulating additional out-of-state NLC nurses who practice in New Jersey; and 2) the decrease in license fee revenues from an unknown number of nurses practicing in this State who reside in other NLC states who will no longer apply for a New Jersey license.
- Annual Board of Nursing operating expenditures will increase, in part, from the payment of an annual assessment to the Interstate Commission of Nurse Licensure Compact Administrators, which currently is \$6,000 per participating state, and sending a representative to the commission's annual meetings.
- Compact participation may result in one-time expenditures from any modification that may have to be made to nurse licenses to comply with compact requirements and the production of an evaluative report after New Jersey's first year of compact participation.

- As the board is statutorily required to pay for its operating expenses out of its fee collections, the OLS notes that the board will be expected to adjust its license fee amounts, if necessary, to account for any significant changes in its finances as a result of joining the NLC.

BILL DESCRIPTION

This bill enters New Jersey in the multistate NLC under which member states mutually recognize the licensure privileges they grant to registered professional nurses and licensed practical nurses. Accordingly, nurses would have to be licensed only in their primary state of residence to be able to practice nursing in any NLC member state. Absent the compact, a nurse is required to be licensed separately in each state in which the nurse chooses to practice.

A nurse who practices nursing in a member state under a multistate licensure privilege is subject to the jurisdiction of the licensing board, the courts, and the laws of the member state in which the nurse's client is located at the time service is provided.

The NLC establishes the Interstate Commission of Nurse Licensure Compact Administrators as a joint public instrumentality of the party states. Each party state is required to have its compact administrator, who is to be the head of the state licensing board or that individual's designee, participate as a member of the commission. The commission is required to meet at least once a year. Member state licensing boards also are required to pay an annual assessment to cover the commission's operating expenses.

Furthermore, the NLC establishes a coordinated licensure information system that includes a database on the licensure and disciplinary history of all nurses licensed in the party states. New Jersey would be required to submit related information to the system and to check the system for possible information on each license applicant. The system is to be administered by a nonprofit organization composed of and controlled by state nurse licensing boards.

In addition, the bill would require that the Attorney General submit, one year after New Jersey becomes a party to the compact, a report to the Governor and the Legislature indicating whether the State's continued participation in the compact is in the best interest of the health, safety, and welfare of its citizens.

The bill also authorizes the Legislature to withdraw New Jersey from the compact if the report submitted by the Attorney General indicates that a party state has changed its licensure requirements to make them substantially lower than the requirements of this State, or that withdrawal from the compact is in the best interest of the citizens of New Jersey.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds that the bill will cause indeterminate increases in annual State expenditures and indeterminate decreases in annual State revenues. The OLS cannot quantify the two fiscal effects on the New Jersey Board of Nursing, given the lack of sufficient information regarding:

1) the increase in board operating expenses from joining the NLC and regulating additional out-of-state NLC nurses who practice in New Jersey; and 2) the decrease in nursing license fee revenues to the board from nurses practicing in this State who reside in other NLC states who will no longer apply for a license in New Jersey. As the board is statutorily required to pay for its operating expenses out of its fee collections, the OLS notes that the board can be expected to adjust its license fee amounts, if necessary, to account for any significant changes in its finances as a result of joining the NLC.

Background on NLC: According to the National Council of State Boards of Nursing, the multistate compact went into effect on July 20, 2017, when 26 states had enacted the enhanced Nurse Licensure Compact (eNLC) legislation (Arizona, Arkansas, Delaware, Florida, Georgia, Idaho, Iowa, Kentucky, Maine, Maryland, Mississippi, Missouri, Montana, Nebraska, New Hampshire, North Carolina, North Dakota, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, West Virginia, and Wyoming). As of the enactment date, the eNLC commission began to meet, draft rules and policies, and set an implementation date. As of January 19, 2018, nurses could practice in eNLC states that have started issuing eNLC multistate licenses.

Although New Jersey entered into a prior version of the multistate NLC through the enactment of P.L.2001, c.340 (C.45:11A-1 et seq.), this law expired on January 1, 2007.

Revenue Decrease: The OLS estimates that the Board of Nursing will experience an indeterminate decrease in annual nursing license fee revenues from nurses practicing in this State who reside in other NLC states who will no longer apply for a license in New Jersey.

Prior to New Jersey's participation in the 2001 NLC agreement, the Division of Consumer Affairs did not anticipate any substantial loss of license revenue to the Board of Nursing as a result of the compact. At the time, 16 percent of all nurses licensed in New Jersey were from out-of-State. Of those out-of-State residents, some 68 percent resided in New York, Pennsylvania, and Florida, which were not members of the compact. Therefore, nurses who resided in these states and practiced in New Jersey were still required to be licensed in New Jersey. Although it is unknown to the OLS where nurses licensed in New Jersey currently reside, as of January 2019, New York and Pennsylvania are still not participants in the compact, thereby limiting the reduction in annual license fee collections as a result of New Jersey joining the NLC.

Expenditure Increase: The OLS projects that the Board of Nursing will incur an indeterminate increase in annual operating expenditures as a result of joining the NLC.

In 2001, the Division of Consumer Affairs estimated that \$138,000 would be needed in the first two years of compact membership to update information and complete modifications to its nurse licenses required under the 2001 compact. The division further estimated that \$12,500 would be required annually thereafter for administrative costs associated with the compact. The OLS does not know if the modifications made to the board's nurse licenses in 2001 are sufficient, or if new modifications would need to be made to adhere to the new eNLC.

Further, under the compact, an annual assessment is required to be paid to finance the Interstate Commission of Nurse Licensure Compact Administrators. According to a National Council of the State Boards of Nursing representative, the fee is currently \$6,000 per participating state board of nursing. In addition, the New Jersey Board of Nursing would be required to send a representative to attend the annual meeting of the commission, resulting in additional travel expenses.

Finally, the Office of the Attorney General would be required to prepare a report after the first year of compact participation indicating whether the State's continued participation is in the best interest of the State. It is unknown to the OLS if due to the analysis requirement the Office

of the Attorney General may incur an indeterminate one-time expenditure increase to meet the additional workload or if the office may absorb it within its existing operating budget.

Section: Law and Public Safety

*Analyst: Wendy Whitbeck
Principal Counsel*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

Governor Murphy Takes Action on Legislation

07/19/2019

TRENTON – Today, Governor Phil Murphy signed the following bills and resolutions into law:

AJR26 (Downey, Houghtaling, Quijano, Mosquera, Vainieri Huttle, Benson, Jasey, McKnight/Pou, Codey) - Designates September of each year as "Youth Suicide Prevention Awareness Month" in New Jersey.

AJR87 (Murphy, Mosquera, Pinkin/Singleton, Addiego) - Designates January 11 of each year as "Alice Paul Day" in New Jersey.

A769 (Caputo, Giblin, Vainieri Huttle/A.R. Bucco, Ruiz) - Requires school districts to incorporate age-appropriate sexual abuse and assault awareness and prevention education in grades preschool through 12 as part of New Jersey Student Learning Standards in Comprehensive Health and Physical Education.

A1048 (Houghtaling, Downey, Mukherji, Holley/Turner, Stack) - Requires property tax bills to contain eligibility information on State tax relief programs.

A1190 (Jones, Giblin, Mukherji/Beach, Cruz-Perez) - Concerns appointment of person to control funeral and disposition of human remains.

A1369 (Kennedy, DeAngelo, Vainieri Huttle, Benson, Quijano/Greenstein, Addiego) - Allows for cancellation of certain service contracts without paying early termination fee if customer becomes deceased prior to end of service contract.

A1428 (McKnight, Chaparro, Chiaravalloti, Vainieri Huttle/Ruiz, Cunningham) - Requires Department of Education to develop guidelines for school districts concerning child trafficking awareness and prevention.

A3766 (Armato, Houghtaling, Murphy, Jones/Corrado) - Requires public officer or employee to forfeit pension upon conviction for corruption of public resources, sexual contact, lewdness, or sexual assault when offense involves or touches upon public office or employment.

A5162 (Speight, Reynolds-Jackson/Beach) - Permits county board of chosen freeholders to increase membership of county board of elections.

A5456 (Armato, Kennedy, Speight/Greenstein, Bateman) - Authorizes NJ Infrastructure Bank to expend certain sums to make loans for environmental infrastructure projects for FY2020.

A5457 (Danielsen, Swain, Milam/Codey) - Appropriates funds to DEP for environmental infrastructure projects for FY2020.

A5462 (Milam, Speight, Murphy/Smith) - Modifies powers and duties of New Jersey Infrastructure Bank.

S692 (Ruiz, Sarlo/Jasey, Caputo, Holley) - Prohibits the DOE from regulating maximum salary amount school district may pay its superintendent of schools and codifies standards for contract review.

S756 (Diegnan, Turner/Calabrese, Sumter, Pinkin) - Updates notice of elections requirements to include information for voter to obtain polling place locations.

S858 (Turner, Diegnan/Jasey, Caputo) - Requires teachers of health and physical education in grades kindergarten through six in public schools to possess appropriate endorsement to instructional certificate.

S954 (Vitale, Singleton, Madden/Conaway, Moriarty, Sumter, McKnight, Mukherji, Downey) - Enters New Jersey in enhanced multistate Nurse Licensure Compact.

S1373 (Andrzejczak/Land, Milam) - Expands option of governmental home health care agency to partner with non-governmental providers to deliver health care services.

S1707 (Oroho, Bateman, Andrzejczak/Space, Wirths) - Exempts governmental entities acquiring lands for open space located in a deed-authorized common interest community from paying community fees if, at time of acquisition, community has never been formed or has been dissolved or discontinued.

S1761 (Weinberg, Singleton/Pintor Marin, Lampitt, Pinkin, Munoz, McKeon) - Expands the Address Confidentiality Program to include victims of sexual assault and stalking; and reproductive health service patients and providers.

S1799 (A.R. Bucco/A.M. Bucco, Murphy, Caputo) - Increases membership of fire safety commission in DCA.

S2472 (Singleton, Murphy/Conaway, Timberlake) - Requires certain real estate licensees to complete courses of study concerning fair housing and housing discrimination.

S2489 (Cruz-Perez, Turner/Mosquera, Jones, Holley, McKnight, Downey) - Requires board of education to post information about child abuse hotline in each school.

S2575 (Diegnan, Greenstein/Karabinchak, Reynolds-Jackson) - Establishes task force to examine and make recommendations regarding implementation of "Anti-Bullying Bill of Rights Act."

S2944 (Ruiz, Cunningham/Pintor Marin, McKnight, Chiaravalloti) - Permits certain council members to appoint up to four fulltime equivalent aides; allows these aide positions to be divided into part-time positions.

S2994 (Ruiz/Freiman, McKeon, Schaer) – Concerns refunds following terminations or cancellations of guaranteed asset protection waivers.

S3043 (Madden, Oroho/Mosquera, Pintor Marin) - Clarifies that family day care providers or other persons who are subjects of criminal history record back checks have access to disqualifying information.

S3452 (Ruiz, Pou/Lopez, Holley, Schaer) - Requires certain consumer reporting agencies to make consumer reports available to consumers in Spanish and certain other languages.

S3899 (Ruiz/Burzichelli) - Allows TPAF retiree to be employed, without TPAF reenrollment, by school district as certificated superintendent or administrator for more than two years when in best interests of school district.