

Introduced by

Human Services Committee

(At the request of the State Board of Nursing)

1 A BILL for an Act to create and enact a new chapter to title 43 of the North Dakota Century  
2 Code, relating to the nurse licensure compact.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** A new chapter to title 43 of the North Dakota Century Code is created and  
5 enacted as follows:

6 **ARTICLE I - FINDINGS AND DECLARATION OF PURPOSE**

7 1. The party states find that:

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

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

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

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

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

21 f. Uniformity of nurse licensure requirements throughout the states promotes public  
22 safety and public health benefits.

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

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



- 1            b. Investigative information that indicates that the nurse represents an immediate  
2            threat to public health and safety regardless of whether the nurse has been  
3            notified and had an opportunity to respond.
- 4            5. "Encumbrance" means a revocation or suspension of, or any limitation on, the full and  
5            unrestricted practice of nursing imposed by a licensing board.
- 6            6. "Home state" means the party state that is the nurse's primary state of residence.
- 7            7. "Licensing board" means a party state's regulatory body responsible for issuing nurse  
8            licenses.
- 9            8. "Multistate license" means a license to practice as a registered or a licensed  
10           practical/vocational nurse issued by a home state licensing board which authorizes the  
11           licensed nurse to practice in all party states under a multistate licensure privilege.
- 12           9. "Multistate licensure privilege" means a legal authorization associated with a multistate  
13           license permitting the practice of nursing as either a registered nurse or licensed  
14           practical/vocational nurse in a remote state.
- 15           10. "Nurse" means registered nurse or licensed practical/vocational nurse, as those terms  
16           are defined by each party state's practice laws.
- 17           11. "Party state" means any state that has adopted this compact.
- 18           12. "Remote state" means a party state, other than the home state.
- 19           13. "Single-state license" means a nurse license issued by a party state which authorizes  
20           practice only within the issuing state and does not include a multistate licensure  
21           privilege to practice in any other party state.
- 22           14. "State" means a state, territory, or possession of the United States and the District of  
23           Columbia.
- 24           15. "State practice laws" means a party state's laws, rules, and regulations that govern the  
25           practice of nursing, define the scope of nursing practice, and create the methods and  
26           grounds for imposing discipline. "State practice laws" do not include requirements  
27           necessary to obtain and retain a license, except for qualifications or requirements of  
28           the home state.

29                            **ARTICLE III - GENERAL PROVISIONS AND JURISDICTION**

- 30            1. A multistate license to practice registered or licensed practical/vocational nursing  
31            issued by a home state to a resident in that state will be recognized by each party

- 1           state as authorizing a nurse to practice as a registered nurse or as a licensed  
2           practical/vocational nurse, under a multistate licensure privilege, in each party state.
- 3        2. A state shall implement procedures for considering the criminal history records of  
4           applicants for initial multistate license or licensure by endorsement. Such procedures  
5           shall include the submission of fingerprints or other biometric-based information by  
6           applicants for the purpose of obtaining an applicant's criminal history record  
7           information from the federal bureau of investigation and the agency responsible for  
8           retaining that state's criminal records.
- 9        3. Each party state shall require the following for an applicant to obtain or retain a  
10           multistate license in the home state:
- 11           a. Meets the home state's qualifications for licensure or renewal of licensure, as well  
12           as, all other applicable state laws;
- 13           b. (1) Has graduated or is eligible to graduate from a licensing board-approved  
14           registered nurse or licensed practical/vocational nurse prelicensure  
15           education program; or
- 16           (2) Has graduated from a foreign registered nurse or licensed  
17           practical/vocational nurse prelicensure education program that:
- 18           (a) Has been approved by the authorized accrediting body in the  
19           applicable country; and
- 20           (b) Has been verified by an independent credentials review agency to be  
21           comparable to a licensing board-approved prelicensure education  
22           program;
- 23           c. Has, if a graduate of a foreign prelicensure education program not taught in  
24           English or if English is not the individual's native language, successfully passed  
25           an English proficiency examination that includes the components of reading,  
26           speaking, writing, and listening;
- 27           d. Has successfully passed an NCLEX-RN® or NCLEX-PN® Examination or  
28           recognized predecessor, as applicable;
- 29           e. Is eligible for or holds an active, unencumbered license;
- 30           f. Has submitted, in connection with an application for initial licensure or licensure  
31           by endorsement, fingerprints or other biometric data for the purpose of obtaining

- 1           criminal history record information from the federal bureau of investigation and  
2           the agency responsible for retaining that state's criminal records;
- 3           g. Has not been convicted or found guilty, or has entered an agreed disposition, of a  
4           felony offense under applicable state or federal criminal law;
- 5           h. Has not been convicted or found guilty, or has entered an agreed disposition, of a  
6           misdemeanor offense related to the practice of nursing as determined on a case-  
7           by-case basis;
- 8           i. Is not currently enrolled in an alternative program;
- 9           j. Is subject to self-disclosure requirements regarding current participation in an  
10           alternative program; and
- 11           k. Has a valid United States social security number.
- 12        4. All party states may, in accordance with existing state due process law, to take  
13        adverse action against a nurse's multistate licensure privilege such as revocation,  
14        suspension, probation, or any other action that affects a nurse's authorization to  
15        practice under a multistate licensure privilege, including cease and desist actions. If a  
16        party state takes such action, it promptly shall notify the administrator of the  
17        coordinated licensure information system. The administrator of the coordinated  
18        licensure information system promptly shall notify the home state of any such actions  
19        by remote states.
- 20        5. A nurse practicing in a party state shall comply with the state practice laws of the state  
21        in which the client is located at the time service is provided. The practice of nursing is  
22        not limited to patient care, but includes all nursing practice as defined by the state  
23        practice laws of the party state in which the client is located. The practice of nursing in  
24        a party state under a multistate licensure privilege will subject a nurse to the  
25        jurisdiction of the licensing board, the courts, and the laws of the party state in which  
26        the client is located at the time service is provided.
- 27        6. Individuals not residing in a party state continue to be able to apply for a party state's  
28        single-state license as provided under the laws of each party state. However, the  
29        single-state license granted to these individuals will not be recognized as granting the  
30        privilege to practice nursing in any other party state. This compact does not affect the  
31        requirements established by a party state for the issuance of a single-state license.

- 1       7. Any nurse holding a home state multistate license, on the effective date of this  
2       compact, may retain and renew the multistate license issued by the nurse's then-  
3       current home state, provided that:
- 4       a. A nurse, who changes primary state of residence after this compact's effective  
5       date, shall meet all applicable requirements of subsection 3 of article III to obtain  
6       a multistate license from a new home state.
- 7       b. A nurse who fails to satisfy the multistate licensure requirements in subsection 3  
8       of article III due to a disqualifying event occurring after this compact's effective  
9       date is ineligible to retain or renew a multistate license, and the nurse's multistate  
10       license must be revoked or deactivated in accordance with applicable rules  
11       adopted by the Interstate Commission of Nurse Licensure compact  
12       Administrators ("commission").

13       **ARTICLE IV - APPLICATIONS FOR LICENSURE IN A PARTY STATE**

- 14       1. Upon application for a multistate license, the licensing board in the issuing party state  
15       shall ascertain, through the coordinated licensure information system, whether the  
16       applicant has ever held, or is the holder of, a license issued by any other state,  
17       whether there are any encumbrances on any license or multistate licensure privilege  
18       held by the applicant, whether any adverse action has been taken against any license  
19       or multistate licensure privilege held by the applicant, and whether the applicant is  
20       currently participating in an alternative program.
- 21       2. A nurse may hold a multistate license, issued by the home state, in only one party  
22       state at a time.
- 23       3. If a nurse changes primary state of residence by moving between two party states, the  
24       nurse shall apply for licensure in the new home state, and the multistate license issued  
25       by the prior home state will be deactivated in accordance with applicable rules  
26       adopted by the commission.
- 27       a. The nurse may apply for licensure in advance of a change in primary state of  
28       residence.
- 29       b. A multistate license may not be issued by the new home state until the nurse  
30       provides satisfactory evidence of a change in primary state of residence to the





- 1       2. The commission, in consultation with the administrator of the coordinated licensure  
2       information system, shall formulate necessary and proper procedures for the  
3       identification, collection, and exchange of information under this compact.
- 4       3. All licensing boards promptly shall report to the coordinated licensure information  
5       system any adverse action, any current significant investigative information, denials of  
6       applications (with the reasons for such denials), and nurse participation in alternative  
7       programs known to the licensing board regardless of whether such participation is  
8       deemed nonpublic or confidential under state law.
- 9       4. Current significant investigative information and participation in nonpublic or  
10      confidential alternative programs must be transmitted through the coordinated  
11      licensure information system only to party state licensing boards.
- 12      5. Notwithstanding any other provision of law, all party state licensing boards contributing  
13      information to the coordinated licensure information system may designate information  
14      that may not be shared with nonparty states or disclosed to other entities or individuals  
15      without the express permission of the contributing state.
- 16      6. Any personally identifiable information obtained from the coordinated licensure  
17      information system by a party state licensing board may not be shared with nonparty  
18      states or disclosed to other entities or individuals except to the extent permitted by the  
19      laws of the party state contributing the information.
- 20      7. Any information contributed to the coordinated licensure information system which is  
21      subsequently required to be expunged by the laws of the party state contributing that  
22      information also must be expunged from the coordinated licensure information system.
- 23      8. The compact administrator of each party state shall furnish a uniform data set to the  
24      compact administrator of each other party state, which must include, at a minimum:
  - 25      a. Identifying information;
  - 26      b. Licensure data;
  - 27      c. Information related to alternative program participation; and
  - 28      d. Other information that may facilitate the administration of this compact, as  
29      determined by commission rules.
- 30      9. The compact administrator of a party state shall provide all investigative documents  
31      and information requested by another party state.

1           **ARTICLE VII - ESTABLISHMENT OF THE INTERSTATE COMMISSION OF NURSE**

2                           **LICENSURE COMPACT ADMINISTRATORS**

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

5           a. The commission is an instrumentality of the party states.

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

11          c. This compact may not be construed to be a waiver of sovereign immunity.

12          2. Membership, voting, and meetings.

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

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

25          c. The commission shall meet at least once during each calendar year. Additional  
26          meetings must be held as set forth in the bylaws or rules of the commission.

27          d. All meetings are open to the public, and public notice of meetings must be given  
28          in the same manner as required under the rulemaking provisions in Article VIII.

29          e. The commission may convene in a closed, nonpublic meeting if the commission  
30          discusses:

31          (1) Noncompliance of a party state with its obligations under this compact;

- 1           (2) The employment, compensation, discipline, or other personnel matters,
- 2                     practices, or procedures related to specific employees or other matters
- 3                     related to the commission's internal personnel practices and procedures:
- 4           (3) Current, threatened, or reasonably anticipated litigation;
- 5           (4) Negotiation of contracts for the purchase or sale of goods, services, or real
- 6                     estate;
- 7           (5) Accusing any person of a crime or formally censuring any person;
- 8           (6) Disclosure of trade secrets or commercial or financial information that is
- 9                     privileged or confidential;
- 10          (7) Disclosure of information of a personal nature if disclosure would constitute
- 11                     a clearly unwarranted invasion of personal privacy;
- 12          (8) Disclosure of investigatory records compiled for law enforcement purposes;
- 13          (9) Disclosure of information related to any reports prepared by or on behalf of
- 14                     the Commission for the purpose of investigation of compliance with this
- 15                     compact; or
- 16          (10) Matters specifically exempted from disclosure by federal or state statute.
- 17          f. If a meeting, or portion of a meeting, is closed pursuant to this provision, the
- 18                     commission's legal counsel or designee shall certify that the meeting may be
- 19                     closed and shall reference each relevant exempting provision. The commission
- 20                     shall keep minutes that fully and clearly describe all matters discussed in a
- 21                     meeting and shall provide a full and accurate summary of actions taken, and the
- 22                     reasons or the actions taken, including a description of the views expressed. All
- 23                     documents considered in connection with an action must be identified in such
- 24                     minutes. All minutes and documents of a closed meeting must remain under seal,
- 25                     subject to release by a majority vote of the commission or order of a court of
- 26                     competent jurisdiction.
- 27          3. By a majority vote of the administrators, the commission shall prescribe bylaws or
- 28                     rules to govern its conduct as may be necessary or appropriate to carry out the
- 29                     purposes and exercise the powers of this compact, including:
- 30                  a. Establishing the fiscal year of the commission;
- 31                  b. Providing reasonable standards and procedures;

- 1                   (1) For the establishment and meetings of other committees; and
- 2                   (2) Governing any general or specific delegation of any authority or function of
- 3                   the commission;
- 4           c. Providing reasonable procedures for calling and conducting meetings of the
- 5                   commission, ensuring reasonable advance notice of all meetings and providing
- 6                   an opportunity for attendance of such meetings by interested parties, with
- 7                   enumerated exceptions designed to protect the public's interest, the privacy of
- 8                   individuals, and proprietary information, including trade secrets. The commission
- 9                   may meet in closed session only after a majority of the administrators vote to
- 10                  close a meeting in whole or in part. As soon as practicable, the commission shall
- 11                  make public a copy of the vote to close the meeting revealing the vote of each
- 12                  administrator, with no proxy votes allowed;
- 13           d. Establishing the titles, duties, and authority and reasonable procedures for the
- 14                  election of the officers of the commission;
- 15           e. Providing reasonable standards and procedures for the establishment of the
- 16                  personnel policies and programs of the commission. Notwithstanding any civil
- 17                  service or other similar laws of any party state, the bylaws exclusively must
- 18                  govern the personnel policies and programs of the commission; and
- 19           f. Providing a mechanism for winding up the operations of the commission and the
- 20                  equitable disposition of any surplus funds that may exist after the termination of
- 21                  this compact after the payment or reserving of all of its debts and obligations;
- 22           4. The commission shall publish its bylaws and rules, and any amendments thereto, in a
- 23                  convenient form on the website of the commission.
- 24           5. The commission shall maintain its financial records in accordance with the bylaws.
- 25           6. The commission shall meet and take such actions as are consistent with the
- 26                  provisions of this compact and the bylaws.
- 27           7. The commission may:
- 28                  a. Promulgate uniform rules to facilitate and coordinate implementation and
- 29                  administration of this compact. The rules have the force and effect of law and are
- 30                  binding in all party states;

- 1            b. Bring and prosecute legal proceedings or actions in the name of the commission,  
2            provided that the standing of any licensing board to sue or be sued under  
3            applicable law may not be affected;
- 4            c. Purchase and maintain insurance and bonds;
- 5            d. Borrow, accept, or contract for services of personnel, including, but not limited to,  
6            employees of a party state or nonprofit organizations;
- 7            e. Cooperate with other organizations that administer state compacts related to the  
8            regulation of nursing, including sharing administrative or staff expenses, office  
9            space, or other resources;
- 10           f. Hire employees, elect or appoint officers, fix compensation, define duties, grant  
11           such individuals appropriate authority to carry out the purposes of this compact,  
12           and to establish the commission's personnel policies and programs relating to  
13           conflicts of interest, qualifications of personnel, and other related personnel  
14           matters;
- 15           g. Accept any and all appropriate donations, grants, and gifts of money, equipment,  
16           supplies, materials, and services, and to receive, utilize, and dispose of the same  
17           if at all times the commission avoids any appearance of impropriety or conflict of  
18           interest;
- 19           h. Lease, purchase, accept appropriate gifts or donations of, or otherwise to own,  
20           hold, improve or use, any property, whether real, personal, or mixed if at all times  
21           the commission avoids any appearance of impropriety;
- 22           i. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose  
23           of any property, whether real, personal, or mixed;
- 24           j. Establish a budget and make expenditures;
- 25           k. Borrow money;
- 26           l. Appoint committees, including advisory committees comprised of administrators,  
27           state nursing regulators, state legislators or their representatives, consumer  
28           representatives, and other such interested persons;
- 29           m. Provide and receive information from, and to cooperate with, law enforcement  
30           agencies;
- 31           n. Adopt and use an official seal; and

1           o. Perform such other functions as may be necessary or appropriate to achieve the  
2                   purposes of this compact consistent with the state regulation of nurse licensure  
3                   and practice.

4       8. Financing of the commission.

5           a. The commission shall pay, or provide for the payment of, the reasonable  
6                   expenses of its establishment, organization, and ongoing activities.

7           b. The commission may also levy on and collect an annual assessment from each  
8                   party state to cover the cost of its operations, activities, and staff in its annual  
9                   budget as approved each year. The aggregate annual assessment amount, if  
10                  any, must be allocated based upon a formula to be determined by the  
11                  commission, which shall promulgate a rule that is binding upon all party states.

12          c. The commission may not incur obligations of any kind before securing the funds  
13                  adequate to meet the same, nor may the commission pledge the credit of any of  
14                  the party states, except by, and with the authority of, such party state.

15          d. The commission shall keep accurate accounts of all receipts and disbursements.  
16                  The receipts and disbursements of the commission are subject to the audit and  
17                  accounting procedures established under its bylaws. However, all receipts and  
18                  disbursements of funds handled by the commission must be audited yearly by a  
19                  certified or licensed public accountant, and the report of the audit must be  
20                  included in and become part of the annual report of the commission.

21       9. Qualified immunity, defense, and indemnification.

22           a. The administrators, officers, executive director, employees, and representatives  
23                  of the commission are immune from suit and liability, either personally or in their  
24                  official capacity, for any claim for damage to or loss of property or personal injury  
25                  or other civil liability caused by or arising out of any actual or alleged act, error, or  
26                  omission that occurred, or that the person against which the claim is made had a  
27                  reasonable basis for believing occurred, within the scope of commission  
28                  employment, duties or responsibilities. However, this subdivision may not be  
29                  construed to protect any such person from suit or liability for any damage, loss,  
30                  injury, or liability caused by the intentional, willful, or wanton misconduct of that  
31                  person.

1           b. The commission shall defend any administrator, officer, executive director,  
2           employee, or representative of the commission in any civil action seeking to  
3           impose liability arising out of any actual or alleged act, error, or omission that  
4           occurred within the scope of commission employment, duties, or responsibilities,  
5           or that the person against which the claim is made had a reasonable basis for  
6           believing occurred within the scope of commission employment, duties, or  
7           responsibilities. However, this subdivision may not be construed to prohibit that  
8           person from retaining that person's own counsel and provided further that the  
9           actual or alleged act, error, or omission did not result from that person's  
10           intentional, willful, or wanton misconduct.

11           c. The commission shall indemnify and hold harmless any administrator, officer,  
12           executive director, employee, or representative of the commission for the amount  
13           of any settlement or judgment obtained against that person arising out of any  
14           actual or alleged act, error, or omission that occurred within the scope of  
15           commission employment, duties, or responsibilities, or that such person had a  
16           reasonable basis for believing occurred within the scope of commission  
17           employment, duties, or responsibilities provided that the actual or alleged act,  
18           error, or omission did not result from the intentional, willful, or wanton misconduct  
19           of that person.

#### **ARTICLE VIII - RULEMAKING**

- 20
- 21           1. The commission shall exercise its rulemaking powers pursuant to the criteria set forth  
22           in this article and the rules adopted under this article. Rules and amendments become  
23           binding as of the date specified in each rule or amendment and have the same force  
24           and effect as provisions of this compact.
- 25           2. Rules or amendments to the rules must be adopted at a regular or special meeting of  
26           the commission.
- 27           3. Before the promulgation and adoption of a final rule or rules by the commission, and at  
28           least sixty days in advance of the meeting at which the rule will be considered and  
29           voted upon, the commission shall file a notice of proposed rulemaking:
- 30           a. On the website of the commission; and

- 1           b. On the website of each licensing board or the publication in which each state  
2           would otherwise publish proposed rules.
- 3       4. The notice of proposed rulemaking must include:
- 4           a. The proposed time, date, and location of the meeting at which the rule will be  
5           considered and voted upon;
- 6           b. The text of the proposed rule or amendment, and the reason for the proposed  
7           rule;
- 8           c. A request for comments on the proposed rule from any interested person; and
- 9           d. The manner in which interested persons may submit notice to the commission of  
10          their intention to attend the public hearing and any written comments.
- 11       5. Before adoption of a proposed rule, the commission shall allow persons to submit  
12          written data, facts, opinions, and arguments, which must be made available to the  
13          public.
- 14       6. The commission shall grant an opportunity for a public hearing before it adopts a rule  
15          or amendment.
- 16       7. The commission shall publish the place, time, and date of the scheduled public  
17          hearing.
- 18           a. Hearings must be conducted in a manner providing each person that wishes to  
19           comment a fair and reasonable opportunity to comment orally or in writing. All  
20           hearings will be recorded, and a copy must be made available upon request.
- 21           b. This section may not be construed as requiring a separate hearing on each rule.  
22           Rules may be grouped for the convenience of the commission at hearings  
23           required by this section.
- 24       8. If no one appears at the public hearing, the commission may proceed with  
25          promulgation of the proposed rule.
- 26       9. Following the scheduled hearing date, or by the close of business on the scheduled  
27          hearing date if the hearing was not held, the commission shall consider all written and  
28          oral comments received.
- 29       10. By majority vote of all administrators, the commission shall take final action on the  
30          proposed rule and shall determine the effective date of the rule, if any, based on the  
31          rulemaking record and the full text of the rule.

- 1        11. Upon determination that an emergency exists, the commission may consider and  
2        adopt an emergency rule without prior notice, opportunity for comment, or hearing.  
3        However, the usual rulemaking procedures provided in this compact and in this section  
4        must be retroactively applied to the rule as soon as reasonably possible, in no event  
5        later than ninety days after the effective date of the rule. For the purposes of this  
6        provision, an emergency rule is one that must be adopted immediately in order to:  
7        a. Meet an imminent threat to public health, safety, or welfare;  
8        b. Prevent a loss of commission or party state funds; or  
9        c. Meet a deadline for the promulgation of an administrative rule that is required by  
10       federal law or rule.
- 11       12. The commission may direct revisions to a previously adopted rule or amendment for  
12       purposes of correcting typographical errors, errors in format, errors in consistency, or  
13       grammatical errors. Public notice of any revisions must be posted on the website of  
14       the commission. The revision is subject to challenge by any person for a period of  
15       thirty days after posting. The revision may be challenged only on grounds that the  
16       revision results in a material change to a rule. A challenge must be made in writing,  
17       and delivered to the commission before the end of the notice period. If a challenge is  
18       not made, the revision will take effect without further action. If the revision is  
19       challenged, the revision may not take effect without the approval of the commission.

20       **ARTICLE IX - OVERSIGHT, DISPUTE, RESOLUTION AND ENFORCEMENT**

- 21       1. Oversight.  
22       a. Each party state shall enforce this compact and take all actions necessary and  
23       appropriate to effectuate this compact's purposes and intent.  
24       b. The commission is entitled to receive service of process in any proceeding that  
25       may affect the powers, responsibilities, or actions of the commission, and has  
26       standing to intervene in such a proceeding for all purposes. Failure to provide  
27       service of process in such proceeding to the commission renders a judgment or  
28       order void as to the commission, this compact, or promulgated rules.
- 29       2. Default, technical assistance, and termination.

- 1           a. If the commission determines a party state has defaulted in the performance of  
2           its obligations or responsibilities under this compact or the promulgated rules, the  
3           commission shall:
- 4           (1) Provide written notice to the defaulting state and other party states of the  
5           nature of the default, the proposed means of curing the default, or any other  
6           action to be taken by the commission; and
- 7           (2) Provide remedial training and specific technical assistance regarding the  
8           default.
- 9           b. If a state in default fails to cure the default, the defaulting state's membership in  
10          this compact may be terminated upon an affirmative vote of a majority of the  
11          administrators, and all rights, privileges, and benefits conferred by this compact  
12          may be terminated on the effective date of termination. A cure of the default does  
13          not relieve the offending state of obligations or liabilities incurred during the  
14          period of default.
- 15          c. Termination of membership in this compact may be imposed only after all other  
16          means of securing compliance have been exhausted. Notice of intent to suspend  
17          or terminate must be given by the commission to the governor of the defaulting  
18          state and to the executive officer of the defaulting state's licensing board and  
19          each of the party states.
- 20          d. A state whose membership in this compact has been terminated is responsible  
21          for all assessments, obligations, and liabilities incurred through the effective date  
22          of termination, including obligations that extend beyond the effective date of  
23          termination.
- 24          e. The commission may not bear any costs related to a state that is found to be in  
25          default or whose membership in this compact has been terminated unless agreed  
26          upon in writing between the commission and the defaulting state.
- 27          f. The defaulting state may appeal the action of the commission by petitioning the  
28          United States district court for the District of Columbia or the federal district in  
29          which the commission has its principal offices. The prevailing party must be  
30          awarded all costs of such litigation, including reasonable attorney's fees.
- 31          3. Dispute resolution.

- 1           a. Upon request by a party state, the commission shall attempt to resolve disputes  
2           related to the compact which arise among party states and between party and  
3           nonparty states.
- 4           b. The commission shall promulgate a rule providing for both mediation and binding  
5           dispute resolution for disputes, as appropriate.
- 6           c. If the commission cannot resolve disputes among party states arising under this  
7           compact:
- 8           (1) The party states may submit the issues in dispute to an arbitration panel,  
9           which will be comprised of individuals appointed by the compact  
10           administrator in each of the affected party states and an individual mutually  
11           agreed upon by the compact administrators of all the party states involved in  
12           the dispute.
- 13           (2) The decision of a majority of the arbitrators is final and binding.

14       4. Enforcement.

- 15           a. The commission, in the reasonable exercise of its discretion, shall enforce the  
16           provisions and rules of this compact.
- 17           b. By majority vote, the commission may initiate legal action in the United States  
18           district court for the District of Columbia or the federal district in which the  
19           commission has its principal offices against a party state that is in default to  
20           enforce compliance with the provisions of this compact and its promulgated rules  
21           and bylaws. The relief sought may include both injunctive relief and damages. If  
22           judicial enforcement is necessary, the prevailing party must be awarded all costs  
23           of such litigation, including reasonable attorney's fees.
- 24           c. The remedies herein are not the exclusive remedies of the commission. The  
25           commission may pursue any other remedies available under federal or state law.

26       **ARTICLE X - EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT**

- 27       1. This compact becomes effective and binding on the earlier of the date of legislative  
28       enactment of this compact into law by no less than twenty-six states or December 31,  
29       2018. All party states to this compact, that also were parties to the prior nurse  
30       licensure compact, superseded by this compact, ("prior compact"), are deemed to

1           have withdrawn from said prior compact within six months after the effective date of  
2           this compact.

3           2. Each party state to this compact shall continue to recognize a nurse's multistate  
4           licensure privilege to practice in that party state issued under the prior compact until  
5           such party state has withdrawn from the prior compact.

6           3. Any party state may withdraw from this compact by enacting a statute repealing the  
7           same. A party state's withdrawal does not take effect until six months after enactment  
8           of the repealing statute.

9           4. A party state's withdrawal or termination does not affect the continuing requirement of  
10          the withdrawing or terminated state's licensing board to report adverse actions and  
11          significant investigations occurring prior to the effective date of such withdrawal or  
12          termination.

13          5. This compact may not be construed to invalidate or prevent any nurse licensure  
14          agreement or other cooperative arrangement between a party state and a nonparty  
15          state that is made in accordance with the other provisions of this compact.

16          6. This compact may be amended by the party states. An amendment to this compact  
17          does not become effective and binding upon the party states unless and until it is  
18          enacted into the laws of all party states.

19          7. Representatives of nonparty states to this compact must be invited to participate in the  
20          activities of the commission, on a nonvoting basis, prior to the adoption of this  
21          compact by all states.

#### 22                           **ARTICLE XI - CONSTRUCTION AND SEVERABILITY**

23          This compact must be liberally construed so as to effectuate the purposes thereof. The  
24          provisions of this compact are severable, and if any phrase, clause, sentence, or provision of  
25          this compact is declared to be contrary to the constitution of any party state or of the United  
26          States, or if the applicability thereof to any government, agency, person, or circumstance is held  
27          invalid, the validity of the remainder of this compact and the applicability thereof to any  
28          government, agency, person, or circumstance may not be affected thereby. If this compact is  
29          held to be contrary to the constitution of any party state, this compact remains in full force and  
30          effect as to the remaining party states and in full force and effect as to the party state affected  
31          as to all severable matters.

Sixty-fifth  
Legislative Assembly

- 1        The term "head of the state licensing board" as used to define the compact administrator in
- 2 subdivision a of subsection 2 of article III means the executive director of the state board of
- 3 nursing.