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H.B. No. 2950

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the Texas Board of
Nursing and to the regulation of the practice of nursing.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 301.003, Occupations Code, is amended to
read as follows:

Sec. 301.003. APPLICATION OF SUNSET ACT. The Texas Board of
Nursing is subject to Chapter 325, Government Code (Texas Sunset
Act). Unless continued in existence as provided by that chapter,
the board is abolished September 1, 2029 [~~2017~~].

SECTION 2. Subchapter A, Chapter 301, Occupations Code, is
amended by adding Section 301.006 to read as follows:

Sec. 301.006. CLAIM OR DEFENSE FOR PROHIBITED RULE OR
POLICY. (a) A person may assert as an affirmative defense in an
administrative hearing or as a claim or defense in a judicial
proceeding under Chapter 37, Civil Practice and Remedies Code, that
a board rule, regulation, or policy, or a penalty imposed by the
board:

(1) limits the ability of an applicant for a license
under this chapter to be licensed based on a sincerely held
religious belief of the applicant; or

(2) burdens a license holder's:

(A) free exercise of religion, regardless of
whether the burden is the result of a rule generally applicable to

1 all license holders;

2 (B) freedom of speech regarding a sincerely held
3 religious belief; or

4 (C) membership in any religious organization.

5 (b) Subsection (a) does not apply if the board demonstrates
6 that the limitation or burden with respect to the applicant or
7 license holder:

8 (1) is in furtherance of a compelling governmental
9 interest; and

10 (2) is the least restrictive means of furthering that
11 interest.

12 (c) A person may bring an action for injunctive relief
13 against a violation of this section.

14 SECTION 3. Section 301.059, Occupations Code, is amended by
15 amending Subsection (b) and adding Subsection (d) to read as
16 follows:

17 (b) The training program must provide the person with
18 information regarding:

19 (1) the law governing [~~legislation that created the~~
20 ~~board and~~] the board's operations;

21 (2) the programs, functions, rules, and budget of the
22 board;

23 (3) the scope of and limitations on the board's
24 rulemaking authority;

25 (4) [(2)] the results of the most recent formal audit
26 of the board;

27 (5) [(3)] the requirements of:

1 (A) laws relating to open meetings, public
2 information, administrative procedure, and disclosing conflicts of
3 interest; and

4 (B) other laws applicable to members of the board
5 in performing their duties; and

6 (6) [(4)] any applicable ethics policies adopted by
7 the board or the Texas Ethics Commission.

8 (d) The executive director of the board shall create a
9 training manual that includes the information required by
10 Subsection (b). The executive director shall distribute a copy of
11 the training manual annually to each board member. On receipt of
12 the training manual, each board member shall sign and submit to the
13 executive director a statement acknowledging receipt of the
14 training manual.

15 SECTION 4. Section 301.157, Occupations Code, is amended by
16 amending Subsections (d-4), (d-8), (d-9), and (d-11) and adding
17 Subsection (d-12) to read as follows:

18 (d-4) The board may recognize and accept as approved under
19 this section a school of nursing or educational program operated in
20 another state and approved by a state board of nursing or other
21 regulatory body of that state. The board shall adopt rules [~~develop~~
22 ~~policies~~] to ensure that the other state's standards are
23 substantially equivalent to the board's standards. The board by
24 rule shall develop a process for students enrolled in a school of
25 nursing or educational program operated in another state that does
26 not meet standards substantially equivalent to the board's
27 standards to apply for an initial license under this chapter.

1 (d-8) For purposes of Subsection (d-4), a nursing program
2 is considered to meet standards substantially equivalent to the
3 board's standards if the program:

4 (1) is part of an institution of higher education
5 located outside this state that is approved by the appropriate
6 regulatory authorities of that state;

7 (2) holds regional accreditation by an accrediting
8 body recognized by the United States secretary of education and the
9 Council for Higher Education Accreditation;

10 (3) holds specialty accreditation by an accrediting
11 body recognized by the United States secretary of education and the
12 Council for Higher Education Accreditation [~~including the~~
13 ~~National League for Nursing Accrediting Commission~~];

14 (4) requires program applicants to be a licensed
15 practical or vocational nurse, a military service corpsman, or a
16 paramedic, or to hold a college degree in a clinically oriented
17 health care field with demonstrated experience providing direct
18 patient care; and

19 (5) graduates students who:

20 (A) achieve faculty-determined program outcomes,
21 including passing criterion-referenced examinations of nursing
22 knowledge essential to beginning a registered nursing practice and
23 transitioning to the role of registered nurse;

24 (B) pass a criterion-referenced summative
25 performance examination developed by faculty subject matter
26 experts that measures clinical competencies essential to beginning
27 a registered nursing practice and that meets nationally recognized

1 standards for educational testing, including the educational
2 testing standards of the American Educational Research
3 Association, the American Psychological Association, and the
4 National Council on Measurement in Education; and

5 (C) pass the National Council Licensure
6 Examination for Registered Nurses at a rate equivalent to the
7 board's required passage rate for students of approved in-state
8 programs.

9 (d-9) A graduate of a clinical competency assessment
10 program operated in another state and approved by a state board of
11 nursing or other regulatory body of another state is eligible to
12 apply for an initial license under this chapter if:

13 (1) ~~[the board allowed graduates of the program to~~
14 ~~apply for an initial license under this chapter continuously during~~
15 ~~the 10-year period preceding January 1, 2007;~~

16 ~~[(2)]~~ the program does not make any substantial
17 changes in the length or content of its clinical competency
18 assessment without the board's approval; and

19 (2) ~~[(3)]~~ the program remains in good standing with
20 the state board of nursing or other regulatory body in the other
21 state ~~[, and~~

22 ~~[(4) the program participates in the research study~~
23 ~~under Section 105.008, Health and Safety Code].~~

24 (d-11) If a clinical competency assessment program operated
25 in another state graduates students who pass the National Council
26 Licensure Examination for Registered Nurses at a rate lower than
27 the board's required passage rate for graduating students of

1 approved in-state programs, not later than May 31 of the next school
2 year the program shall:

3 (1) for the first year the student passage rate is
4 lower than the board's required passage rate for students of
5 approved in-state programs, complete and submit to the board for
6 review and comment a self-study of the program in accordance with
7 the board's guidelines;

8 (2) for the second consecutive year the student
9 passage rate is lower than the board's required passage rate for
10 students of approved in-state programs, allow the board to conduct
11 a desk review to evaluate the program using the criteria typically
12 used in an on-site visit and make recommendations to improve the
13 program; and

14 (3) for the third consecutive year the student passage
15 rate is lower than the board's required passage rate for students of
16 approved in-state programs, provide notice on the program's
17 Internet website that prospective students of the program may need
18 to complete additional requirements to apply for an initial license
19 in this state because the program has failed to meet the board's
20 standards related to the required passage rate on the National
21 Council Licensure Examination for Registered Nurses [~~Subsections~~
22 ~~(d-8), (d-9), (d-10), and (d-11) expire December 31, 2017. As part~~
23 ~~of the first review conducted under Section 301.003 after September~~
24 ~~1, 2009, the Sunset Advisory Commission shall:~~

25 ~~[(1) recommend whether Subsections (d-8) and (d-9)~~
26 ~~should be extended; and~~

27 ~~[(2) recommend any changes to Subsections (d-8) and~~

1 ~~(d-9) relating to the eligibility for a license of graduates of a~~
2 ~~clinical competency assessment program operated in another state].~~

3 (d-12) A clinical competency assessment program operated in
4 another state is not considered to meet standards substantially
5 equivalent to the board's standards if the program fails to meet the
6 applicable requirements under Subsection (d-11) or if the program's
7 graduating student passage rate on the National Council Licensure
8 Examination for Registered Nurses is lower than the board's
9 required passage rate for graduating students of approved in-state
10 programs for four consecutive years. A student enrolled in a
11 program described by this subsection before December 31 of the
12 fourth consecutive year is eligible to apply for an initial license
13 under this chapter. The program shall notify a student who enrolls
14 in the program after December 31 of the fourth consecutive year that
15 the student is required to complete additional requirements
16 established by the board under Subsection (d-4) to apply for an
17 initial license under this chapter.

18 SECTION 5. Subchapter D, Chapter 301, Occupations Code, is
19 amended by adding Section 301.1583 to read as follows:

20 Sec. 301.1583. DISCIPLINARY RECORD. (a) The board shall
21 remove a disciplinary action from a nurse's record on the board's
22 Internet website if:

- 23 (1) the nurse applies to the board for removal;
24 (2) the disciplinary action is the only disciplinary
25 action taken against the nurse;
26 (3) the disciplinary action was an administrative,
27 clerical, or other minor violation not causing harm to a patient;

1 (4) the disciplinary action did not result in the
2 suspension or revocation of, or the probation of the suspension or
3 revocation of, the nurse's license;

4 (5) the disciplinary action does not provide any
5 indication that continued practice by the nurse may risk harm to a
6 patient; and

7 (6) the disciplinary action occurred at least five
8 years before the date the nurse applied for removal.

9 (b) Information contained in the coordinated licensure
10 information system, as defined in Section 304.0015 in Article II of
11 the Nurse Licensure Compact, that is removed from the board's
12 Internet website under this section may not be provided to a state
13 that is not a party to the compact under that section or to any other
14 person.

15 SECTION 6. Section 301.252, Occupations Code, is amended by
16 amending Subsection (a) and adding Subsection (a-2) to read as
17 follows:

18 (a) Each applicant for a registered nurse license or a
19 vocational nurse license must submit to the board a sworn
20 application that demonstrates the applicant's qualifications under
21 this chapter, accompanied by evidence that the applicant:

22 (1) has good professional character related to the
23 practice of nursing;

24 (2) has successfully completed a program of
25 professional or vocational nursing education approved under
26 Section 301.157(d); and

27 (3) has passed the jurisprudence examination approved

1 by the board as provided by Subsection (a-1).

2 (a-2) An applicant who provides satisfactory evidence that
3 the applicant has not committed a violation of this chapter or a
4 rule adopted under this chapter is considered to have good
5 professional character related to the practice of nursing. A
6 determination by the board that an applicant does not have good
7 professional character related to the practice of nursing must be
8 based on a showing by the board of a clear and rational connection
9 between a violation of this chapter or a rule adopted under this
10 chapter and the applicant's ability to effectively practice
11 nursing.

12 SECTION 7. Section 301.257, Occupations Code, is amended by
13 adding Subsections (l) and (m) to read as follows:

14 (l) The board may require in a declaratory order under this
15 section that a person begin participation in a peer assistance
16 program at the time of receipt of an initial license under this
17 chapter. The board shall notify the person that, on issuance of the
18 person's initial license, the person may request reevaluation of
19 the person's required participation in the peer assistance program.

20 (m) The board by rule shall develop a process to determine
21 whether a person should continue to be required to participate in a
22 peer assistance program. In making the determination, the board
23 shall:

24 (1) review the person's criminal history record
25 information and, if applicable, determine whether participation in
26 the program is warranted based on the time that has elapsed since
27 the conviction or end of community supervision;

1 (2) reevaluate or require a contractor administering a
2 peer assistance program to reevaluate the treatment plan or the
3 time the person is required to participate in the peer assistance
4 program based on the person's individualized needs; and

5 (3) authorize, as appropriate, a waiver of peer
6 assistance program completion if the board is satisfied the person
7 has achieved a satisfactory period of treatment or documented
8 sobriety, as defined by board rules, and continued participation is
9 not necessary.

10 SECTION 8. Section 301.301(b), Occupations Code, is amended
11 to read as follows:

12 (b) A person may renew an unexpired license issued under
13 this chapter on payment to the board of the required renewal fee
14 before the expiration date of the license [~~, payment to the board of~~
15 ~~any costs assessed under Section 301.461,~~] and compliance with any
16 other renewal requirements adopted by the board. A person whose
17 license has expired may not engage in activities that require a
18 license until the license has been renewed.

19 SECTION 9. Subchapter H, Chapter 301, Occupations Code, is
20 amended by adding Section 301.355 to read as follows:

21 Sec. 301.355. DUTIES RELATED TO CERTAIN PRESCRIPTIONS. (a)
22 An advanced practice registered nurse authorized to prescribe or
23 order a drug or device may not prescribe a drug listed in Subsection
24 (b) to a patient unless the advanced practice registered nurse has
25 reviewed the patient's prescription history by accessing the
26 prescription information submitted to the Texas State Board of
27 Pharmacy as authorized by Section 481.076(a)(5), Health and Safety

1 Code.

2 (b) Subsection (a) applies only to the prescribing of:

3 (1) opioids;

4 (2) benzodiazepines;

5 (3) barbiturates; or

6 (4) carisoprodol.

7 (c) Failure by an advanced practice registered nurse to
8 comply with the requirements of this section is grounds for
9 disciplinary action under Section 301.452.

10 SECTION 10. Section 301.4106, Occupations Code, is amended
11 to read as follows:

12 Sec. 301.4106. PEER ASSISTANCE PROGRAMS. The board by rule
13 shall develop guidelines to:

14 (1) outline the roles and responsibilities of the
15 board and a peer assistance program established or approved by the
16 board under Chapter 467, Health and Safety Code;

17 (2) outline the process for a peer assistance program
18 to refer to the board complaints alleging a violation of the
19 practice of nursing;

20 (3) establish requirements for successfully
21 completing a peer assistance program and for notification of the
22 board of the successful completion by a nurse the board has ordered
23 to attend or referred to the program; ~~and~~

24 (4) establish a clear procedure based on meaningful
25 performance goals for evaluating the success of a peer assistance
26 program established or approved by the board under Chapter 467,
27 Health and Safety Code;

1 (5) establish individualized requirements for
2 participants in a peer assistance program, including the duration
3 of participation in a peer assistance program for substance use,
4 based on the individual's diagnosis and needs; and

5 (6) ensure that participation requirements and
6 treatment plans for peer assistance program participants who are
7 referred to peer assistance for similar reasons are administered
8 consistently.

9 SECTION 11. Section 301.452, Occupations Code, is amended
10 by amending Subsection (b) and adding Subsection (e) to read as
11 follows:

12 (b) A person is subject to denial of a license or to
13 disciplinary action under this subchapter for:

14 (1) a violation of this chapter, a rule or regulation
15 not inconsistent with this chapter, or an order issued under this
16 chapter;

17 (2) fraud or deceit in procuring or attempting to
18 procure a license to practice professional nursing or vocational
19 nursing;

20 (3) a conviction for, or placement on deferred
21 adjudication community supervision or deferred disposition for, a
22 felony or for a misdemeanor involving moral turpitude;

23 (4) conduct that results in the revocation of
24 probation imposed because of conviction for a felony or for a
25 misdemeanor involving moral turpitude;

26 (5) use of a nursing license, diploma, or permit, or
27 the transcript of such a document, that has been fraudulently

1 purchased, issued, counterfeited, or materially altered;

2 (6) impersonating or acting as a proxy for another
3 person in the licensing examination required under Section 301.253
4 or 301.255;

5 (7) directly or indirectly aiding or abetting an
6 unlicensed person in connection with the unauthorized practice of
7 nursing;

8 (8) revocation, suspension, or denial of, or any other
9 action relating to, the person's license or privilege to practice
10 nursing in another jurisdiction or under federal law;

11 (9) intemperate use of alcohol or drugs that the board
12 determines endangers or could endanger a patient;

13 (10) unprofessional [~~or dishonorable~~] conduct in the
14 practice of nursing that [~~, in the board's opinion,~~] is likely to
15 deceive, defraud, or injure a patient or the public;

16 (11) adjudication of mental incompetency;

17 (12) lack of fitness to practice because of a mental or
18 physical health condition that could result in injury to a patient
19 or the public; or

20 (13) failure to care adequately for a patient or to
21 conform to the minimum standards of acceptable nursing practice in
22 a manner that, in the board's opinion, exposes a patient or other
23 person unnecessarily to risk of harm.

24 (e) The board shall adopt rules to ensure that license
25 denials and disciplinary action under Subsection (b)(10) are based
26 on the application of objective criteria that are clearly and
27 rationally connected to the applicant's or license holder's conduct

1 and that any negative outcome resulting from that conduct is
2 determined to affect the person's ability to effectively practice
3 nursing.

4 SECTION 12. Section 301.459, Occupations Code, is amended
5 by amending Subsection (a) and adding Subsection (a-1) to read as
6 follows:

7 (a) The board by rule shall adopt procedures under Chapter
8 2001, Government Code, governing formal disposition of a contested
9 case. An administrative law judge employed by the [The] State
10 Office of Administrative Hearings shall conduct a formal hearing.
11 After receiving the administrative law judge's findings of fact and
12 conclusions of law for a contested case, the board shall dispose of
13 the case by issuing a final order based on the administrative law
14 judge's findings of fact and conclusions of law.

15 (a-1) Notwithstanding Section 2001.058(e), Government
16 Code, the board in a contested case may not change a finding of fact
17 or conclusion of law or vacate or modify an order of the
18 administrative law judge. The board may obtain judicial review of
19 any finding of fact or conclusion of law issued by the
20 administrative law judge as provided by Section 2001.058(f)(5),
21 Government Code. For each case, the administrative law judge may
22 make a recommendation regarding an appropriate action or sanction.
23 The board has the sole authority and discretion to determine the
24 appropriate action or sanction.

25 SECTION 13. Subchapter L, Chapter 301, Occupations Code, is
26 amended by adding Section 301.5525 to read as follows:

27 Sec. 301.5525. MONITORING HARMFUL PRESCRIBING PATTERNS OR

1 PRACTICES. (a) The board shall periodically check the prescribing
2 information submitted to the Texas State Board of Pharmacy as
3 authorized by Section 481.076(a)(1), Health and Safety Code, to
4 determine whether an advanced practice registered nurse licensed
5 under this chapter is engaging in potentially harmful prescribing
6 patterns or practices.

7 (b) The board, in coordination with the Texas State Board of
8 Pharmacy, shall determine the conduct that constitutes a
9 potentially harmful prescribing pattern or practice for purposes of
10 Subsection (a). In determining the conduct that constitutes a
11 potentially harmful prescribing pattern or practice, the board at a
12 minimum shall consider:

13 (1) the number of times an advanced practice
14 registered nurse prescribes a drug listed in Section 301.355(b);
15 and

16 (2) for prescriptions described by Subdivision (1),
17 patterns of prescribing combinations of those drugs and other
18 dangerous combinations of drugs identified by the board.

19 (c) If the board suspects that an advanced practice
20 registered nurse licensed under this chapter may be engaging in
21 potentially harmful prescribing patterns or practices, the board
22 may notify the advanced practice registered nurse of the
23 potentially harmful prescribing pattern or practice.

24 (d) The board may initiate a complaint against an advanced
25 practice registered nurse based on information obtained under this
26 section.

27 SECTION 14. Section 301.461, Occupations Code, is amended

1 to read as follows:

2 Sec. 301.461. ASSESSMENT OF COSTS PROHIBITED. The board
3 may not assess a person who is found to have violated this chapter
4 the administrative costs of conducting a hearing to determine the
5 violation.

6 SECTION 15. Section 301.466, Occupations Code, is amended
7 by adding Subsection (e) to read as follows:

8 (e) Information regarding a complaint, investigation, or
9 disciplinary action contained in the coordinated licensure
10 information system, as defined in Section 304.0015 in Article II of
11 the Nurse Licensure Compact, may not be provided to a state that is
12 not a party to the compact under that section or to any other
13 person.

14 SECTION 16. Chapter 304, Occupations Code, is amended by
15 adding Section 304.0015 to read as follows:

16 Sec. 304.0015. NURSE LICENSURE COMPACT. The Nurse
17 Licensure Compact is enacted and entered into with all other
18 jurisdictions that legally join in the compact, which reads as
19 follows:

20 NURSE LICENSURE COMPACT

21 ARTICLE I. FINDINGS AND DECLARATION OF PURPOSE

22 (a) The party states find that:

23 (1) the health and safety of the public are affected by
24 the degree of compliance with and the effectiveness of enforcement
25 activities related to state nurse licensure laws;

26 (2) violations of nurse licensure and other laws
27 regulating the practice of nursing may result in injury or harm to

1 the public;

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

6 (4) new practice modalities and technology make
7 compliance with individual state nurse licensure laws difficult and
8 complex;

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

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

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

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

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

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

23 (4) promote compliance with the laws governing the
24 practice of nursing in each jurisdiction;

25 (5) invest all party states with the authority to hold
26 a nurse accountable for meeting all state practice laws in the state
27 in which the patient is located at the time care is rendered through

1 the mutual recognition of party state licenses;

2 (6) decrease redundancies in the consideration and
3 issuance of nurse licenses; and

4 (7) provide opportunities for interstate practice by
5 nurses who meet uniform licensure requirements.

6 ARTICLE II. DEFINITIONS

7 As used in this compact:

8 (a) "Adverse action" means any administrative, civil,
9 equitable, or criminal action permitted by a state's laws that is
10 imposed by a licensing board or other authority against a nurse,
11 including actions against an individual's license or multistate
12 licensure privilege such as revocation, suspension, probation,
13 monitoring of the licensee, limitation on the licensee's practice,
14 or any other encumbrance on licensure affecting a nurse's
15 authorization to practice, including issuance of a cease and desist
16 action.

17 (b) "Alternative program" means a nondisciplinary
18 monitoring program approved by a licensing board.

19 (c) "Coordinated licensure information system" means an
20 integrated process for collecting, storing, and sharing
21 information on nurse licensure and enforcement activities related
22 to nurse licensure laws that is administered by a nonprofit
23 organization composed of and controlled by licensing boards.

24 (d) "Current significant investigative information" means:

25 (1) investigative information that a licensing board,
26 after a preliminary inquiry that includes notification and an
27 opportunity for the nurse to respond, if required by state law, has

1 reason to believe is not groundless and, if proven true, would
2 indicate more than a minor infraction; or

3 (2) investigative information that indicates that the
4 nurse represents an immediate threat to public health and safety
5 regardless of whether the nurse has been notified and had an
6 opportunity to respond.

7 (e) "Encumbrance" means a revocation or suspension of, or
8 any limitation on, the full and unrestricted practice of nursing
9 imposed by a licensing board.

10 (f) "Home state" means the party state which is the nurse's
11 primary state of residence.

12 (g) "Licensing board" means a party state's regulatory body
13 responsible for issuing nurse licenses.

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

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

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

25 (k) "Party state" means any state that has adopted this
26 compact.

27 (l) "Remote state" means a party state, other than the home

1 state.

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

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

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

14 ARTICLE III. GENERAL PROVISIONS AND JURISDICTION

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

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

1 that state's criminal records.

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

5 (1) meets the home state's qualifications for
6 licensure or renewal of licensure, as well as all other applicable
7 state laws;

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

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

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

22 (4) has successfully passed an NCLEX-RN or NCLEX-PN
23 Examination or a recognized predecessor, as applicable;

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

26 (6) has submitted, in connection with an application
27 for initial licensure or licensure by endorsement, fingerprints or

1 other biometric data for the purpose of obtaining criminal history
2 record information from the Federal Bureau of Investigation and the
3 agency responsible for retaining that state's criminal records;

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

7 (8) has not been convicted or found guilty, or has
8 entered into an agreed disposition, of a misdemeanor offense
9 related to the practice of nursing as determined on a case-by-case
10 basis;

11 (9) is not currently enrolled in an alternative
12 program;

13 (10) is subject to self-disclosure requirements
14 regarding current participation in an alternative program; and

15 (11) has a valid United States social security number.

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

26 (e) A nurse practicing in a party state must comply with the
27 state practice laws of the state in which the client is located at

1 the time service is provided. The practice of nursing is not
2 limited to patient care, but shall include all nursing practice as
3 defined by the state practice laws of the party state in which the
4 client is located. The practice of nursing in a party state under a
5 multistate licensure privilege will subject a nurse to the
6 jurisdiction of the licensing board, the courts, and the laws of the
7 party state in which the client is located at the time service is
8 provided.

9 (f) Individuals not residing in a party state shall continue
10 to be able to apply for a party state's single-state license as
11 provided under the laws of each party state. However, the
12 single-state license granted to these individuals will not be
13 recognized as granting the privilege to practice nursing in any
14 other party state. Nothing in this compact shall affect the
15 requirements established by a party state for the issuance of a
16 single-state license.

17 (g) Any nurse holding a home state multistate license, on
18 the effective date of this compact, may retain and renew the
19 multistate license issued by the nurse's then-current home state,
20 provided that:

21 (1) a nurse, who changes primary state of residence
22 after this compact's effective date, must meet all applicable
23 Article III(c) requirements to obtain a multistate license from the
24 new home state; or

25 (2) a nurse who fails to satisfy the multistate
26 licensure requirements in Article III(c) due to a disqualifying
27 event occurring after this compact's effective date shall be

1 ineligible to retain or renew a multistate license, and the nurse's
2 multistate license shall be revoked or deactivated in accordance
3 with applicable rules adopted by the Interstate Commission of Nurse
4 Licensure Compact Administrators ("commission").

5 ARTICLE IV. APPLICATIONS FOR LICENSURE IN A PARTY STATE

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

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

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

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

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

1 license from the new home state.

2 (d) If a nurse changes primary state of residence by moving
3 from a party state to a nonparty state, the multistate license
4 issued by the prior home state will convert to a single-state
5 license, valid only in the former home state.

6 ARTICLE V. ADDITIONAL AUTHORITIES INVESTED IN PARTY STATE

7 LICENSING BOARDS

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

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

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

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

21 (2) issue cease and desist orders or impose an
22 encumbrance on a nurse's authority to practice within that party
23 state.

24 (3) complete any pending investigation of a nurse who
25 changes primary state of residence during the course of such
26 investigation. The licensing board shall also have the authority
27 to take appropriate action(s) and shall promptly report the

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

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

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

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

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

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

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

15 ARTICLE VI. COORDINATED LICENSURE INFORMATION SYSTEM AND EXCHANGE
16 OF INFORMATION

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

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

27 (c) All licensing boards shall promptly report to the

1 coordinated licensure information system any adverse action, any
2 current significant investigative information, denials of
3 applications (with the reasons for such denials), and nurse
4 participation in alternative programs known to the licensing board
5 regardless of whether such participation is deemed nonpublic or
6 confidential under state law.

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

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

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

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

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

4 (1) identifying information;

5 (2) licensure data;

6 (3) information related to alternative program
7 participation; and

8 (4) other information that may facilitate the
9 administration of this compact, as determined by commission rules.

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

13 ARTICLE VII. ESTABLISHMENT OF INTERSTATE COMMISSION OF NURSE

14 LICENSURE COMPACT ADMINISTRATORS

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

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

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

26 (3) Nothing in this compact shall be construed to be a
27 waiver of sovereign immunity.

1 (b) Membership, Voting, and Meetings

2 (1) Each party state shall have and be limited to one
3 administrator. The head of the state licensing board or a designee
4 shall be the administrator of this compact for each party state.
5 Any administrator may be removed or suspended from office as
6 provided by the law of the state from which the administrator is
7 appointed. Any vacancy occurring in the commission shall be filled
8 in accordance with the laws of the party state in which the vacancy
9 exists.

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

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

20 (4) All meetings shall be open to the public, and
21 public notice of meetings shall be given in the same manner as
22 required under the rulemaking provisions in Article VIII.

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

25 (i) noncompliance of a party state with its
26 obligations under this compact;

27 (ii) the employment, compensation, discipline,

1 or other personnel matters, practices, or procedures related to
2 specific employees or other matters related to the commission's
3 internal personnel practices and procedures;

4 (iii) current, threatened, or reasonably
5 anticipated litigation;

6 (iv) negotiation of contracts for the purchase or
7 sale of goods, services, or real estate;

8 (v) accusing any person of a crime or formally
9 censuring any person;

10 (vi) disclosure of trade secrets or commercial or
11 financial information that is privileged or confidential;

12 (vii) disclosure of information of a personal
13 nature where disclosure would constitute a clearly unwarranted
14 invasion of personal privacy;

15 (viii) disclosure of investigatory records
16 compiled for law enforcement purposes;

17 (ix) disclosure of information related to any
18 reports prepared by or on behalf of the commission for the purpose
19 of investigation of compliance with this compact; or

20 (x) matters specifically exempted from
21 disclosure by federal or state statute.

22 (6) If a meeting or portion of a meeting is closed
23 pursuant to this provision, the commission's legal counsel or
24 designee shall certify that the meeting may be closed and shall
25 reference each relevant exempting provision. The commission shall
26 keep minutes that fully and clearly describe all matters discussed
27 in a meeting and shall provide a full and accurate summary of

1 actions taken, and the reasons therefor, including a description of
2 the views expressed. All documents considered in connection with
3 an action shall be identified in such minutes. All minutes and
4 documents of a closed meeting shall remain under seal, subject to
5 release by a majority vote of the commission or order of a court of
6 competent jurisdiction.

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

11 (1) establishing the fiscal year of the commission;

12 (2) providing reasonable standards and procedures:

13 (i) for the establishment and meeting of other
14 committees; and

15 (ii) governing any general or specific
16 delegation of any authority or function of the commission;

17 (3) providing reasonable procedures for calling and
18 conducting meetings of the commission, ensuring reasonable advance
19 notice of all meetings, and providing an opportunity for attendance
20 of such meetings by interested parties, with enumerated exceptions
21 designed to protect the public's interest, the privacy of
22 individuals, and proprietary information, including trade secrets.

23 The commission may meet in closed session only after a majority of
24 the administrators vote to close a meeting in whole or in part. As
25 soon as practicable, the commission must make public a copy of the
26 vote to close the meeting revealing the vote of each administrator,
27 with no proxy votes allowed;

1 (4) establishing the titles, duties and authority, and
2 reasonable procedures for the election of the officers of the
3 commission;

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

9 (6) providing a mechanism for winding up the
10 operations of the commission and the equitable disposition of any
11 surplus funds that may exist after the termination of this compact
12 after the payment or reserving of all of its debts and obligations.

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

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

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

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

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

25 (2) to bring and prosecute legal proceedings or
26 actions in the name of the commission, provided that the standing of
27 any licensing board to sue or be sued under applicable law shall not

1 be affected;

2 (3) to purchase and maintain insurance and bonds;

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

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

10 (6) to hire employees, elect or appoint officers, fix
11 compensation, define duties, grant such individuals appropriate
12 authority to carry out the purposes of this compact, and to
13 establish the commission's personnel policies and programs
14 relating to conflicts of interest, qualifications of personnel, and
15 other related personnel matters;

16 (7) to accept any and all appropriate donations,
17 grants, and gifts of money, equipment, supplies, materials, and
18 services, and to receive, utilize, and dispose of the same;
19 provided that at all times the commission shall avoid any
20 appearance of impropriety or conflict of interest;

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

25 (9) to sell, convey, mortgage, pledge, lease,
26 exchange, abandon, or otherwise dispose of any property, whether
27 real, personal, or mixed;

1 (10) to establish a budget and make expenditures;

2 (11) to borrow money;

3 (12) to appoint committees, including advisory
4 committees comprised of administrators, state nursing regulators,
5 state legislators or their representatives, consumer
6 representatives, and other such interested persons;

7 (13) to provide and receive information from, and to
8 cooperate with, law enforcement agencies;

9 (14) to adopt and use an official seal; and

10 (15) to perform such other functions as may be
11 necessary or appropriate to achieve the purposes of this compact
12 consistent with the state regulation of nurse licensure and
13 practice.

14 (h) Financing of the Commission

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

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

24 (3) The commission shall not incur an obligation of
25 any kind prior to securing the funds adequate to meet the same; nor
26 shall the commission pledge the credit of any of the party states,
27 except by and with the authority of such party state.

1 (4) The commission shall keep accurate accounts of all
2 receipts and disbursements. The receipts and disbursements of the
3 commission shall be subject to the audit and accounting procedures
4 established under its bylaws. However, all receipts and
5 disbursements of funds handled by the commission shall be audited
6 yearly by a certified or licensed public accountant, and the report
7 of the audit shall be included in and become part of the annual
8 report of the commission.

9 (i) Qualified Immunity, Defense, and Indemnification

10 (1) The compact administrators, officers, executive
11 directors, employees, and representatives of the commission shall
12 be immune from suit and liability, either personally or in their
13 official capacity, for any claim for damage to or loss of property,
14 or personal injury or other civil liability caused by or arising out
15 of any actual or alleged act, error, or omission that occurred, or
16 that the person against whom the claim is made had a reasonable
17 basis for believing occurred, within the scope of commission
18 employment, duties, or responsibilities; provided that nothing in
19 this subdivision shall be construed to protect any such person from
20 suit or liability for any damages, loss, injury, or liability
21 caused by the intentional, wilful, or wanton misconduct of that
22 person.

23 (2) The commission shall defend any administrator,
24 officer, executive director, employee, or representative of the
25 commission in any civil action seeking to impose liability arising
26 out of any actual or alleged act, error, or omission that occurred
27 within the scope of commission employment, duties, or

1 responsibilities, or that the person against whom the claim is made
2 had a reasonable basis for believing occurred within the scope of
3 commission employment, duties, or responsibilities; provided that
4 nothing herein shall be construed to prohibit that person from
5 retaining his or her own counsel; and provided further that the
6 actual or alleged act, error, or omission did not result from that
7 person's intentional, wilful, or wanton misconduct.

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

19 ARTICLE VIII. RULEMAKING

20 (a) The commission shall exercise its rulemaking powers
21 pursuant to the criteria set forth in this article and the rules
22 adopted thereunder. Rules and amendments shall become binding as
23 of the date specified in each rule or amendment and shall have the
24 same force and effect as provisions of this compact.

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

27 (c) Prior to promulgation and adoption of a final rule or

1 rules by the commission, and at least sixty (60) days in advance of
2 the meeting at which the rule will be considered and voted upon, the
3 commission shall file a notice of proposed rulemaking:

4 (1) on the website of the commission; and

5 (2) on the website of each licensing board or the
6 publication in which each state would otherwise publish proposed
7 rules.

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

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

11 (2) the text of the proposed rule or amendment, and the
12 reason for the proposed rule;

13 (3) a request for comments on the proposed rule from
14 any interested person; and

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

18 (e) Prior to adoption of a proposed rule, the commission
19 shall allow persons to submit written data, facts, opinions, and
20 arguments, which shall be made available to the public.

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

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

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

1 a copy will be made available upon request.

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

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

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

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

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

25 (1) meet an imminent threat to public health, safety,
26 or welfare;

27 (2) prevent a loss of commission or party state funds;

1 or

2 (3) meet a deadline for the promulgation of an
3 administrative rule that is required by federal law or rule.

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

17 ARTICLE IX. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

18 (a) Oversight

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

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

1 commission, this compact, or promulgated rules.

2 (b) Default, Technical Assistance, and Termination

3 (1) If the commission determines that a party state
4 has defaulted in the performance of its obligations or
5 responsibilities under this compact or the promulgated rules, the
6 commission shall:

7 (i) provide written notice to the defaulting
8 state and other party states of the nature of the default, the
9 proposed means of curing the default, or any other action to be
10 taken by the commission; and

11 (ii) provide remedial training and specific
12 technical assistance regarding the default.

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

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

26 (4) A state whose membership in this compact has been
27 terminated is responsible for all assessments, obligations, and

1 liabilities incurred through the effective date of the termination,
2 including obligations that extend beyond the effective date of
3 termination.

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

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

13 (c) Dispute Resolution

14 (1) Upon request by a party state, the commission
15 shall attempt to resolve disputes related to the compact that arise
16 among party states and between party and nonparty states.

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

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

22 (i) the party states may submit the issues in
23 dispute to an arbitration panel, which will be comprised of
24 individuals appointed by the compact administrator in each of the
25 affected party states and an individual mutually agreed upon by the
26 compact administrators of all the party states involved in the
27 dispute; and

1 (ii) the decision of a majority of the
2 arbitrators shall be final and binding.

3 (d) Enforcement

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

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

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

18 ARTICLE X. EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENTS

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

27 (b) Each party state to this compact shall continue to

1 recognize a nurse's multistate licensure privilege to practice in
2 that party state issued under the prior compact until the party
3 state has withdrawn from the prior compact.

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

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

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

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

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

26 ARTICLE XI. CONSTRUCTION AND SEVERABILITY

27 This compact shall be liberally construed so as to effectuate

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

13 SECTION 17. Chapter 304, Occupations Code, is amended by
14 adding Section 304.0025 to read as follows:

15 Sec. 304.0025. RULES ADOPTED UNDER COMPACT. The Interstate
16 Commission of Nurse Licensure Compact Administrators established
17 under the Nurse Licensure Compact under Section 304.0015 may not
18 adopt rules that alter the requirements or scope of practice of a
19 license issued under Chapter 301. Any rule adopted by the
20 Interstate Commission of Nurse Licensure Compact Administrators
21 that purports to alter the requirements or scope of practice of a
22 license issued under Chapter 301 is not enforceable.

23 SECTION 18. Section 304.006(a), Occupations Code, is
24 amended to read as follows:

25 (a) On request and payment of a reasonable fee, the Texas
26 Board of Nursing shall provide a registered or vocational nurse
27 licensed by this state with a copy of information regarding the

1 nurse maintained by the coordinated licensure information system
2 under Article VI [7] of the Nurse Licensure Compact.

3 SECTION 19. Section 304.008(a), Occupations Code, is
4 amended to read as follows:

5 (a) In reporting information to the coordinated licensure
6 information system under Article VI [7] of the Nurse Licensure
7 Compact, the Texas Board of Nursing may disclose personally
8 identifiable information about the nurse, including the nurse's
9 social security number.

10 SECTION 20. (a) Sections 301.160 and 301.163, Occupations
11 Code, are repealed.

12 (b) Effective December 31, 2018, Sections 304.001 and
13 304.009, Occupations Code, are repealed.

14 SECTION 21. (a) Except as provided by Subsection (b) of
15 this section, Section 301.059, Occupations Code, as amended by this
16 Act, applies to a member of the Texas Board of Nursing appointed
17 before, on, or after the effective date of this Act.

18 (b) A member of the Texas Board of Nursing who, before the
19 effective date of this Act, completed the training program required
20 by Section 301.059, Occupations Code, as that law existed before
21 the effective date of this Act, is required to complete additional
22 training only on subjects added to the training program required by
23 Section 301.059, Occupations Code, as amended by this Act. A board
24 member described by this subsection may not vote, deliberate, or be
25 counted as a member in attendance at a meeting of the board held on
26 or after December 1, 2017, until the member completes the
27 additional training.

1 SECTION 22. (a) Not later than May 31, 2018, the Texas
2 Board of Nursing shall adopt the rules necessary to implement the
3 changes in law made by this Act to Section 301.157, Occupations
4 Code. In adopting rules under this subsection, the board shall
5 provide an opportunity for public comment and, through the board's
6 Advisory Committee on Education, seek comment from interested
7 parties. The rules must:

8 (1) clearly define substantially equivalent education
9 standards for purposes of recognizing a school of nursing or
10 educational program operated in another state; and

11 (2) establish a process for enabling students enrolled
12 in an out-of-state school of nursing or educational program that
13 does not meet standards substantially equivalent to the board's
14 standards to apply for initial licensure under Chapter 301,
15 Occupations Code.

16 (b) Not later than March 1, 2018, the Texas Board of Nursing
17 shall adopt the rules necessary to implement the changes in law made
18 by this Act to Sections 301.252 and 301.452, Occupations Code. In
19 adopting rules under this subsection, the board shall seek comments
20 from relevant interested parties.

21 (c) Section 301.157(d-11), Occupations Code, as amended by
22 this Act, applies beginning with the passage rates available in
23 January 2018, reflecting the passage rates for the preceding year.
24 If the passage rate for a clinical competency assessment program
25 available in January 2018 does not meet the Texas Board of Nursing's
26 required passage rate for students of approved in-state programs,
27 the clinical competency assessment program shall complete the

1 self-study required under Section 301.157(d-11)(1), Occupations
2 Code, as amended by this Act, not later than May 31, 2018.

3 (d) Sections 301.301(b) and 301.461, Occupations Code, as
4 amended by this Act, apply only to the assessment of the
5 administrative costs of conducting a hearing to determine a
6 violation on or after the effective date of this Act. The
7 assessment of the administrative costs of conducting a hearing to
8 determine a violation before the effective date of this Act is
9 governed by the law in effect on the date the administrative costs
10 were assessed, and the former law is continued in effect for that
11 purpose.

12 (e) Section 301.459, Occupations Code, as amended by this
13 Act, applies only to a contested case for which an administrative
14 law judge employed by the State Office of Administrative Hearings
15 issues written findings of fact and conclusions of law on or after
16 the effective date of this Act. A contested case for which an
17 administrative law judge employed by the State Office of
18 Administrative Hearings issues written findings of fact and
19 conclusions of law before the effective date of this Act is governed
20 by the law in effect on the date the findings of fact and
21 conclusions of law were issued, and the former law is continued in
22 effect for that purpose.

23 SECTION 23. Section 301.355, Occupations Code, as added by
24 this Act, applies only to a prescription issued on or after
25 September 1, 2018. A prescription issued before September 1, 2018,
26 is governed by the law in effect on the date the prescription was
27 issued, and the former law is continued in effect for that purpose.

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1 SECTION 24. Except as otherwise provided by this Act, this
2 Act takes effect September 1, 2017.