

House Bill 402

By: Representatives Cooper of the 43rd, Shaw of the 176th, Lott of the 122nd, Watson of the 172nd, and Corbett of the 174th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 26 of Title 43 of the Official Code of Georgia Annotated, relating to
2 nurses, so as to enter into an interstate compact known as the "Nurse Licensure Compact";
3 to authorize the Georgia Board of Nursing to exercise certain powers with respect to the
4 compact; to provide for a short title; to provide for findings and declarations of purpose of
5 the compact; to provide for definitions; to provide for general provisions and jurisdiction; to
6 provide for applications for licensure in a party state; to provide for additional authorities
7 invested in party state licensing boards; to provide for a coordinated licensure information
8 system and exchange of information between the party states; to provide for the
9 establishment of the Interstate Commission of Nurse Licensure Compact Administrators; to
10 provide for rulemaking; to provide for oversight, dispute resolution, and enforcement; to
11 provide for an effective date, withdrawal, and amendment of the compact; to provide for
12 construction and severability; to provide for related matters; to repeal conflicting laws; and
13 for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 style="text-align:center">**SECTION 1.**

16 Chapter 26 of Title 43 of the Official Code of Georgia Annotated, relating to nurses, is
17 amended by revising Code Section 43-26-5, relating to general powers and responsibilities
18 of the Georgia Board of Nursing, as follows:

19 "43-26-5.

20 (a) The board shall:

21 (1) Be responsible for the enforcement of the provisions of this chapter and shall be
22 specifically granted all of the necessary duties, powers, and authority to carry out this
23 responsibility;

24 (2) Be authorized to draft, adopt, amend, repeal, and enforce such rules as it deems
25 necessary for the administration and enforcement of this chapter in the protection of
26 public health, safety, and welfare;

- 27 (3) Enforce qualifications for licensure under this article or Article 2 or Article 4 of this
28 chapter;
- 29 (4) Develop and enforce reasonable and uniform standards for nursing education and
30 nursing practice;
- 31 (5) Periodically evaluate nursing education programs and approve such programs as meet
32 the board's requirements;
- 33 (6) Deny or withdraw approval from noncompliant nursing education programs;
- 34 (7) License duly qualified applicants under this article or Article 2 of this chapter by
35 examination, endorsement, or reinstatement;
- 36 (8) Be authorized to issue temporary permits;
- 37 (9) Renew licenses of registered professional nurses, licensed undergraduate nurses, and
38 licensed practical nurses in accordance with this article or Article 2 of this chapter;
- 39 (10) Be authorized to set standards for competency of licensees under this article or
40 Article 2 of this chapter continuing in or returning to practice;
- 41 (11) Set standards for and regulate advanced nursing practice;
- 42 (12) Be authorized to enact rules and regulations for registered professional nurses in
43 their performing acts under a nurse protocol as authorized in Code Section 43-34-23 and
44 enact rules and regulations for advanced practice registered nurses in performing acts as
45 authorized in Code Section 43-34-25;
- 46 (13) Implement the disciplinary process;
- 47 (14) Be authorized to issue orders when a license under this article or Article 2 of this
48 chapter is surrendered to the board while a complaint, investigation, or disciplinary action
49 against such license is pending;
- 50 (15) Issue a limited license to practice nursing or licensed practical nursing subject to
51 such terms and conditions as the board may impose;
- 52 (16) Provide consultation and conduct conferences, forums, studies, and research on
53 nursing education and nursing practice;
- 54 (17) Approve the selection of a qualified person to serve as executive director;
- 55 (18) Be authorized to appoint standing or ad hoc committees as necessary to inform and
56 make recommendations to the board about issues and concerns and to facilitate
57 communication amongst the board, licensees under this article or Article 2 of this chapter,
58 and the community;
- 59 (19) Maintain membership in the national organization which develops and regulates the
60 nursing licensing examination and the practical nursing licensing examination;
- 61 (20) Be authorized to collect data regarding existing nursing and licensed practical
62 nursing resources in Georgia and coordinate planning for nursing education and nursing
63 practice;

- 64 (21) Determine fees;
- 65 (22) Adopt a seal which shall be in the care of the executive director and shall be affixed
66 only in such a manner as prescribed by the board; and
- 67 (23) Be authorized to enforce all investigative and disciplinary orders issued by the
68 former Georgia Board of Examiners of Licensed Practical Nurses;
- 69 (24) Issue and renew multistate licenses pursuant to Article 4 of this chapter; and
- 70 (25) Take any action with respect to a multistate license issued by this state pursuant to
71 Article 4 of this chapter and with respect to the privilege to practice in this state under a
72 multistate license issued by another party state pursuant to the compact in Code Section
73 43-26-61 in the same manner as is authorized with respect to a license issued pursuant
74 to this article or Article 2 of this chapter.
- 75 (b) The board shall be the sole professional licensing board for determining if a registered
76 professional nurse, licensed practical nurse, or any other person has engaged illegally in
77 the practice of nursing. If a registered professional nurse or licensed practical nurse is
78 charged with the unauthorized practice of any other health profession by any other board,
79 such board shall notify the Georgia Board of Nursing before conducting any hearing.
80 Nothing contained in this chapter shall be construed to limit any powers of any other board.
- 81 (c) Chapter 1 of this title is expressly adopted and incorporated by reference into this
82 chapter as if all the provisions of such chapter were included in this chapter."

83 **SECTION 2.**

84 Said chapter is further amended by adding a new article to read as follows:

85 "ARTICLE 4

86 43-26-60.

87 This article shall be known and may be cited as the 'Nurse Licensure Compact.'

88 43-26-61.

89 The Nurse Licensure Compact is enacted into law and entered into by the State of Georgia
90 with any and all other states legally joining therein in the form substantially as follows:

91 ARTICLE I

92 Findings and Declaration of Purpose

93 (a) The party states find that:

- 94 (1) The health and safety of the public are affected by the degree of compliance with
 95 and the effectiveness of enforcement activities related to state nurse licensure laws;
 96 (2) Violations of nurse licensure and other laws regulating the practice of nursing may
 97 result in injury or harm to the public;
 98 (3) The expanded mobility of nurses and the use of advanced communication
 99 technologies as part of our nation's health care delivery system require greater
 100 coordination and cooperation among states in the areas of nurse licensure and
 101 regulation;
 102 (4) New practice modalities and technology make compliance with individual state
 103 nurse licensure laws difficult and complex;
 104 (5) The current system of duplicative licensure for nurses practicing in multiple states
 105 is cumbersome and redundant for both nurses and states; and
 106 (6) Uniformity of nurse licensure requirements throughout the states promotes public
 107 safety and public health benefits.
- 108 (b) The general purposes of this Compact are to:
- 109 (1) Facilitate the states' responsibility to protect the public's health and safety;
 110 (2) Ensure and encourage the cooperation of party states in the areas of nurse licensure
 111 and regulation;
 112 (3) Facilitate the exchange of information between party states in the areas of nurse
 113 regulation, investigation and adverse actions;
 114 (4) Promote compliance with the laws governing the practice of nursing in each
 115 jurisdiction;
 116 (5) Invest all party states with the authority to hold a nurse accountable for meeting all
 117 state practice laws in the state in which the patient is located at the time care is rendered
 118 through the mutual recognition of party state licenses;
 119 (6) Decrease redundancies in the consideration and issuance of nurse licenses; and
 120 (7) Provide opportunities for interstate practice by nurses who meet uniform licensure
 121 requirements.

122 ARTICLE II

123 Definitions

124 As used in this Compact:

- 125 (a) 'Adverse action' means any administrative, civil, equitable or criminal action
 126 permitted by a state's laws which is imposed by a licensing board or other authority
 127 against a nurse, including actions against an individual's license or multistate licensure
 128 privilege such as revocation, suspension, probation, monitoring of the licensee, limitation

- 129 on the licensee's practice, or any other encumbrance on licensure affecting a nurse's
130 authorization to practice, including issuance of a cease and desist action.
- 131 (b) 'Alternative program' means a non-disciplinary monitoring program approved by a
132 licensing board.
- 133 (c) 'Coordinated licensure information system' means an integrated process for
134 collecting, storing and sharing information on nurse licensure and enforcement activities
135 related to nurse licensure laws that is administered by a nonprofit organization composed
136 of and controlled by licensing boards.
- 137 (d) 'Current significant investigative information' means:
- 138 (1) Investigative information that a licensing board, after a preliminary inquiry that
139 includes notification and an opportunity for the nurse to respond, if required by state
140 law, has reason to believe is not groundless and, if proved true, would indicate more
141 than a minor infraction, or
- 142 (2) Investigative information that indicates that the nurse represents an immediate
143 threat to public health and safety regardless of whether the nurse has been notified and
144 had an opportunity to respond.
- 145 (e) 'Encumbrance' means a revocation or suspension of, or any limitation on, the full and
146 unrestricted practice of nursing imposed by a licensing board.
- 147 (f) 'Home state' means the party state which is the nurse's primary state of residence.
- 148 (g) 'Licensing board' means a party state's regulatory body responsible for issuing nurse
149 licenses.
- 150 (h) 'Multistate license' means a license to practice as a registered professional nurse or
151 a licensed practical nurse issued by a home state licensing board that authorizes the
152 licensed nurse to practice in all party states under a multistate licensure privilege.
- 153 (i) 'Multistate licensure privilege' means a legal authorization associated with a multistate
154 license permitting the practice of nursing as either a registered professional nurse or a
155 licensed practical nurse in a remote state.
- 156 (j) 'Nurse' means a registered professional nurse or licensed practical nurse, as those
157 terms are defined by each party state's practice laws.
- 158 (k) 'Party state' means any state that has adopted this Compact.
- 159 (l) 'Remote state' means a party state, other than the home state.
- 160 (m) 'Single-state license' means a nurse license issued by a party state that authorizes
161 practice only within the issuing state and does not include a multistate licensure privilege
162 to practice in any other party state.
- 163 (n) 'State' means a state, territory or possession of the United States and the District of
164 Columbia.

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

170 ARTICLE III

171 General Provisions and Jurisdiction

172 (a) A multistate license to practice as a registered professional nurse or a licensed
 173 practical nurse issued by a home state to a resident in that state will be recognized by
 174 each party state as authorizing a nurse to practice as a registered professional nurse or a
 175 licensed practical nurse, under a multistate licensure privilege, in each party state.

176 (b) A state must implement procedures for considering the criminal history records of
 177 applicants for initial multistate license or licensure by endorsement. Such procedures
 178 shall include the submission of fingerprints or other biometric-based information by
 179 applicants for the purpose of obtaining an applicant's criminal history record information
 180 from the Federal Bureau of Investigation and the agency responsible for retaining that
 181 state's criminal records.

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

184 (1) Meets the home state's qualifications for licensure or renewal of licensure, as well
 185 as, all other applicable state laws;

186 (2)(i) Has graduated or is eligible to graduate from a licensing board-approved
 187 registered professional nurse or licensed practical nurse prelicensure education
 188 program; or

189 (ii) Has graduated from a foreign registered professional nurse or licensed practical
 190 nurse prelicensure education program that (a) has been approved by the authorized
 191 accrediting body in the applicable country and (b) has been verified by an
 192 independent credentials review agency to be comparable to a licensing
 193 board-approved prelicensure education program;

194 (3) Has, if a graduate of a foreign prelicensure education program not taught in English
 195 or if English is not the individual's native language, successfully passed an English
 196 proficiency examination that includes the components of reading, speaking, writing and
 197 listening;

198 (4) Has successfully passed an NCLEX-RN® or NCLEX-PN® Examination or
 199 recognized predecessor, as applicable;

- 200 (5) Is eligible for or holds an active, unencumbered license;
201 (6) Has submitted, in connection with an application for initial licensure or licensure
202 by endorsement, fingerprints or other biometric data for the purpose of obtaining
203 criminal history record information from the Federal Bureau of Investigation and the
204 agency responsible for retaining that state's criminal records;
205 (7) Has not been convicted or found guilty, or has entered into an agreed disposition,
206 of a felony offense under applicable state or federal criminal law;
207 (8) Has not been convicted or found guilty, or has entered into an agreed disposition,
208 of a misdemeanor offense related to the practice of nursing as determined on a
209 case-by-case basis;
210 (9) Is not currently enrolled in an alternative program;
211 (10) Is subject to self-disclosure requirements regarding current participation in an
212 alternative program; and
213 (11) Has a valid United States Social Security number.
- 214 (d) All party states shall be authorized, in accordance with existing state due process law,
215 to take adverse action against a nurse's multistate licensure privilege to practice such as
216 revocation, suspension, probation or any other action that affects a nurse's authorization
217 to practice under a multistate licensure privilege, including cease and desist actions. If
218 a party state takes such action, it shall promptly notify the administrator of the
219 coordinated licensure information system. The administrator of the coordinated licensure
220 information system shall promptly notify the home state of any such actions by remote
221 states.
- 222 (e) A nurse practicing in a party state must comply with the state practice laws of the
223 state in which the client is located at the time service is provided. The practice of nursing
224 is not limited to patient care, but shall include all nursing practice as defined by the state
225 practice laws of the party state in which the client is located. The practice of nursing in
226 a party state under a multistate licensure privilege will subject a nurse to the jurisdiction
227 of the licensing board, the courts and the laws of the party state in which the client is
228 located at the time service is provided.
- 229 (f) Individuals not residing in a party state shall continue to be able to apply for a party
230 state's single-state license as provided under the laws of each party state. However, the
231 single-state license granted to these individuals will not be recognized as granting the
232 privilege to practice nursing in any other party state. Nothing in this Compact shall affect
233 the requirements established by a party state for the issuance of a single-state license.
- 234 (g) Any nurse holding a home state multistate license, on the effective date of this
235 Compact, may retain and renew the multistate license issued by the nurse's then-current
236 home state, provided that:

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

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

245 ARTICLE IV

246 Applications for Licensure in a Party State

247 (a) Upon application for a multistate license, the licensing board in the issuing party state
 248 shall ascertain, through the coordinated licensure information system, whether the
 249 applicant has ever held, or is the holder of, a license issued by any other state, whether
 250 there are any encumbrances on any license or multistate licensure privilege held by the
 251 applicant, whether any adverse action has been taken against any license or multistate
 252 licensure privilege held by the applicant and whether the applicant is currently
 253 participating in an alternative program.

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

256 (c) If a nurse changes primary state of residence by moving between two party states, the
 257 nurse must apply for licensure in the new home state, and the multistate license issued by
 258 the prior home state will be deactivated in accordance with applicable rules adopted by
 259 the Commission.

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

262 (2) A multistate license shall not be issued by the new home state until the nurse
 263 provides satisfactory evidence of a change in primary state of residence to the new
 264 home state and satisfies all applicable requirements to obtain a multistate license from
 265 the new home state.

266 (d) If a nurse changes primary state of residence by moving from a party state to a
 267 non-party state, the multistate license issued by the prior home state will convert to a
 268 single-state license, valid only in the former home state.

ARTICLE VAdditional Authorities Invested in
Party State Licensing Boards

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

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

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

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

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

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

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

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

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

305 (7) Take adverse action based on the factual findings of the remote state, provided that
306 the licensing board follows its own procedures for taking such adverse action.

307 (b) If adverse action is taken by the home state against a nurse's multistate license, the
308 nurse's multistate licensure privilege to practice in all other party states shall be
309 deactivated until all encumbrances have been removed from the multistate license. All
310 home state disciplinary orders that impose adverse action against a nurse's multistate
311 license shall include a statement that the nurse's multistate licensure privilege is
312 deactivated in all party states during the pendency of the order.

313 (c) Nothing in this Compact shall override a party state's decision that participation in
314 an alternative program may be used in lieu of adverse action. The home state licensing
315 board shall deactivate the multistate licensure privilege under the multistate license of any
316 nurse for the duration of the nurse's participation in an alternative program.

317 ARTICLE VI

318 Coordinated Licensure Information System

319 and Exchange of Information

320 (a) All party states shall participate in a coordinated licensure information system of all
321 registered professional nurses and licensed practical nurses. This system will include
322 information on the licensure and disciplinary history of each nurse, as submitted by party
323 states, to assist in the coordination of nurse licensure and enforcement efforts.

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

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

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

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

339 (f) Any personally identifiable information obtained from the coordinated licensure
 340 information system by a party state licensing board shall not be shared with non-party
 341 states or disclosed to other entities or individuals except to the extent permitted by the
 342 laws of the party state contributing the information.

343 (g) Any information contributed to the coordinated licensure information system that is
 344 subsequently required to be expunged by the laws of the party state contributing that
 345 information shall also be expunged from the coordinated licensure information system.

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

348 (1) Identifying information;

349 (2) Licensure data;

350 (3) Information related to alternative program participation; and

351 (4) Other information that may facilitate the administration of this Compact, as
 352 determined by Commission rules.

353 (i) The Compact administrator of a party state shall provide all investigative documents
 354 and information requested by another party state.

355 ARTICLE VII

356 Establishment of the Interstate Commission of

357 Nurse Licensure Compact Administrators

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

360 (1) The Commission is an instrumentality of the party states.

361 (2) Venue is proper, and judicial proceedings by or against the Commission shall be
 362 brought solely and exclusively, in a court of competent jurisdiction where the principal
 363 office of the Commission is located. The Commission may waive venue and
 364 jurisdictional defenses to the extent it adopts or consents to participate in alternative
 365 dispute resolution proceedings.

366 (3) Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

367 (b) Membership, Voting and Meetings

368 (1) Each party state shall have and be limited to one administrator. The head of the
 369 state licensing board or designee shall be the administrator of this Compact for each
 370 party state. Any administrator may be removed or suspended from office as provided
 371 by the law of the state from which the Administrator is appointed. Any vacancy
 372 occurring in the Commission shall be filled in accordance with the laws of the party
 373 state in which the vacancy exists.

374 (2) Each administrator shall be entitled to one (1) vote with regard to the promulgation
375 of rules and creation of bylaws and shall otherwise have an opportunity to participate
376 in the business and affairs of the Commission. An administrator shall vote in person
377 or by such other means as provided in the bylaws. The bylaws may provide for an
378 administrator's participation in meetings by telephone or other means of
379 communication.

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

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

384 (5) The Commission may convene in a closed, nonpublic meeting if the Commission
385 must discuss:

386 (i) Noncompliance of a party state with its obligations under this Compact;

387 (ii) The employment, compensation, discipline or other personnel matters, practices
388 or procedures related to specific employees or other matters related to the
389 Commission's internal personnel practices and procedures;

390 (iii) Current, threatened or reasonably anticipated litigation;

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

392 (v) Accusing any person of a crime or formally censuring any person;

393 (vi) Disclosure of trade secrets or commercial or financial information that is
394 privileged or confidential;

395 (vii) Disclosure of information of a personal nature where disclosure would constitute
396 a clearly unwarranted invasion of personal privacy;

397 (viii) Disclosure of investigatory records compiled for law enforcement purposes;

398 (ix) Disclosure of information related to any reports prepared by or on behalf of the
399 Commission for the purpose of investigation of compliance with this Compact; or

400 (x) Matters specifically exempted from disclosure by federal or state statute.

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

- 410 (c) The Commission shall, by a majority vote of the administrators, prescribe bylaws or
411 rules to govern its conduct as may be necessary or appropriate to carry out the purposes
412 and exercise the powers of this Compact, including but not limited to:
- 413 (1) Establishing the fiscal year of the Commission;
414 (2) Providing reasonable standards and procedures:
415 (i) For the establishment and meetings of other committees, and
416 (ii) Governing any general or specific delegation of any authority or function of the
417 Commission;
418 (3) Providing reasonable procedures for calling and conducting meetings of the
419 Commission, ensuring reasonable advance notice of all meetings and providing an
420 opportunity for attendance of such meetings by interested parties, with enumerated
421 exceptions designed to protect the public's interest, the privacy of individuals, and
422 proprietary information, including trade secrets. The Commission may meet in closed
423 session only after a majority of the administrators vote to close a meeting in whole or
424 in part. As soon as practicable, the Commission must make public a copy of the vote
425 to close the meeting revealing the vote of each administrator, with no proxy votes
426 allowed;
427 (4) Establishing the titles, duties and authority and reasonable procedures for the
428 election of the officers of the Commission;
429 (5) Providing reasonable standards and procedures for the establishment of the
430 personnel policies and programs of the Commission. Notwithstanding any civil service
431 or other similar laws of any party state, the bylaws shall exclusively govern the
432 personnel policies and programs of the Commission; and
433 (6) Providing a mechanism for winding up the operations of the Commission and the
434 equitable disposition of any surplus funds that may exist after the termination of this
435 Compact after the payment or reserving of all of its debts and obligations;
- 436 (d) The Commission shall publish its bylaws and rules, and any amendments thereto, in
437 a convenient form on the website of the Commission.
- 438 (e) The Commission shall maintain its financial records in accordance with the bylaws.
- 439 (f) The Commission shall meet and take such actions as are consistent with the
440 provisions of this Compact and the bylaws.
- 441 (g) The Commission shall have the following powers:
442 (1) To promulgate uniform rules to facilitate and coordinate implementation and
443 administration of this Compact. The rules shall have the force and effect of law and
444 shall be binding in all party states;

- 445 (2) To bring and prosecute legal proceedings or actions in the name of the
 446 Commission, provided that the standing of any licensing board to sue or be sued under
 447 applicable law shall not be affected;
- 448 (3) To purchase and maintain insurance and bonds;
- 449 (4) To borrow, accept or contract for services of personnel, including, but not limited
 450 to, employees of a party state or nonprofit organizations;
- 451 (5) To cooperate with other organizations that administer state compacts related to the
 452 regulation of nursing, including but not limited to sharing administrative or staff
 453 expenses, office space or other resources;
- 454 (6) To hire employees, elect or appoint officers, fix compensation, define duties, grant
 455 such individuals appropriate authority to carry out the purposes of this Compact, and
 456 to establish the Commission's personnel policies and programs relating to conflicts of
 457 interest, qualifications of personnel and other related personnel matters;
- 458 (7) To accept any and all appropriate donations, grants and gifts of money, equipment,
 459 supplies, materials and services, and to receive, utilize and dispose of the same;
 460 provided that at all times the Commission shall avoid any appearance of impropriety
 461 or conflict of interest;
- 462 (8) To lease, purchase, accept appropriate gifts or donations of, or otherwise to own,
 463 hold, improve or use, any property, whether real, personal or mixed; provided that at
 464 all times the Commission shall avoid any appearance of impropriety;
- 465 (9) To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose
 466 of any property, whether real, personal or mixed;
- 467 (10) To establish a budget and make expenditures;
- 468 (11) To borrow money;
- 469 (12) To appoint committees, including advisory committees comprised of
 470 administrators, state nursing regulators, state legislators or their representatives, and
 471 consumer representatives, and other such interested persons;
- 472 (13) To provide and receive information from, and to cooperate with, law enforcement
 473 agencies;
- 474 (14) To adopt and use an official seal; and
- 475 (15) To perform such other functions as may be necessary or appropriate to achieve the
 476 purposes of this Compact consistent with the state regulation of nurse licensure and
 477 practice.
- 478 (h) Financing of the Commission
- 479 (1) The Commission shall pay, or provide for the payment of, the reasonable expenses
 480 of its establishment, organization and ongoing activities.

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

486 (3) The Commission shall not incur obligations of any kind prior to securing the funds
487 adequate to meet the same; nor shall the Commission pledge the credit of any of the
488 party states, except by, and with the authority of, such party state.

489 (4) The Commission shall keep accurate accounts of all receipts and disbursements.
490 The receipts and disbursements of the Commission shall be subject to the audit and
491 accounting procedures established under its bylaws. However, all receipts and
492 disbursements of funds handled by the Commission shall be audited yearly by a
493 certified or licensed public accountant, and the report of the audit shall be included in
494 and become part of the annual report of the Commission.

495 (i) Qualified Immunity, Defense and Indemnification

496 (1) The administrators, officers, executive director, employees and representatives of
497 the Commission shall be immune from suit and liability, either personally or in their
498 official capacity, for any claim for damage to or loss of property or personal injury or
499 other civil liability caused by or arising out of any actual or alleged act, error or
500 omission that occurred, or that the person against whom the claim is made had a
501 reasonable basis for believing occurred, within the scope of Commission employment,
502 duties or responsibilities, provided that nothing in this paragraph shall be construed to
503 protect any such person from suit or liability for any damage, loss, injury or liability
504 caused by the intentional, willful or wanton misconduct of that person.

505 (2) The Commission shall defend any administrator, officer, executive director,
506 employee or representative of the Commission in any civil action seeking to impose
507 liability arising out of any actual or alleged act, error or omission that occurred within
508 the scope of Commission employment, duties or responsibilities, or that the person
509 against whom the claim is made had a reasonable basis for believing occurred within
510 the scope of Commission employment, duties or responsibilities; provided that nothing
511 herein shall be construed to prohibit that person from retaining his or her own counsel;
512 and provided further that the actual or alleged act, error or omission did not result from
513 that person's intentional, willful or wanton misconduct.

514 (3) The Commission shall indemnify and hold harmless any administrator, officer,
515 executive director, employee or representative of the Commission for the amount of any
516 settlement or judgment obtained against that person arising out of any actual or alleged
517 act, error or omission that occurred within the scope of Commission employment.

518 duties or responsibilities, or that such person had a reasonable basis for believing
 519 occurred within the scope of Commission employment, duties or responsibilities,
 520 provided that the actual or alleged act, error or omission did not result from the
 521 intentional, willful or wanton misconduct of that person.

522 ARTICLE VIII

523 Rulemaking

524 (a) The Commission shall exercise its rulemaking powers pursuant to the criteria set
 525 forth in this Article and the rules adopted thereunder. Rules and amendments shall
 526 become binding as of the date specified in each rule or amendment and shall have the
 527 same force and effect as provisions of this Compact.

528 (b) Rules or amendments to the rules shall be adopted at a regular or special meeting of
 529 the Commission.

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

533 (1) On the website of the Commission; and

534 (2) On the website of each licensing board or the publication in which each state would
 535 otherwise publish proposed rules.

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

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

539 (2) The text of the proposed rule or amendment, and the reason for the proposed rule;

540 (3) A request for comments on the proposed rule from any interested person; and

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

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

545 (f) The Commission shall grant an opportunity for a public hearing before it adopts a rule
 546 or amendment.

547 (g) The Commission shall publish the place, time and date of the scheduled public
 548 hearing.

549 (1) Hearings shall be conducted in a manner providing each person who wishes to
 550 comment a fair and reasonable opportunity to comment orally or in writing. All
 551 hearings will be recorded, and a copy will be made available upon request.

552 (2) Nothing in this section shall be construed as requiring a separate hearing on each
 553 rule. Rules may be grouped for the convenience of the Commission at hearings
 554 required by this section.

555 (h) If no one appears at the public hearing, the Commission may proceed with
 556 promulgation of the proposed rule.

557 (i) Following the scheduled hearing date, or by the close of business on the scheduled
 558 hearing date if the hearing was not held, the Commission shall consider all written and
 559 oral comments received.

560 (j) The Commission shall, by majority vote of all administrators, take final action on the
 561 proposed rule and shall determine the effective date of the rule, if any, based on the
 562 rulemaking record and the full text of the rule.

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

569 (1) Meet an imminent threat to public health, safety or welfare;

570 (2) Prevent a loss of Commission or party state funds; or

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

573 (l) The Commission may direct revisions to a previously adopted rule or amendment for
 574 purposes of correcting typographical errors, errors in format, errors in consistency or
 575 grammatical errors. Public notice of any revisions shall be posted on the website of the
 576 Commission. The revision shall be subject to challenge by any person for a period of
 577 thirty (30) days after posting. The revision may be challenged only on grounds that the
 578 revision results in a material change to a rule. A challenge shall be made in writing, and
 579 delivered to the Commission, prior to the end of the notice period. If no challenge is
 580 made, the revision will take effect without further action. If the revision is challenged,
 581 the revision may not take effect without the approval of the Commission.

582 ARTICLE IX

583 Oversight, Dispute Resolution and Enforcement

584 (a) Oversight

585 (1) Each party state shall enforce this Compact and take all actions necessary and
 586 appropriate to effectuate this Compact's purposes and intent.

587 (2) The Commission shall be entitled to receive service of process in any proceeding
588 that may affect the powers, responsibilities or actions of the Commission, and shall
589 have standing to intervene in such a proceeding for all purposes. Failure to provide
590 service of process in such proceeding to the Commission shall render a judgment or
591 order void as to the Commission, this Compact or promulgated rules.

592 (b) Default, Technical Assistance and Termination

593 (1) If the Commission determines that a party state has defaulted in the performance
594 of its obligations or responsibilities under this Compact or the promulgated rules, the
595 Commission shall:

596 (i) Provide written notice to the defaulting state and other party states of the nature
597 of the default, the proposed means of curing the default or any other action to be taken
598 by the Commission; and

599 (ii) Provide remedial training and specific technical assistance regarding the default.

600 (2) If a state in default fails to cure the default, the defaulting state's membership in this
601 Compact may be terminated upon an affirmative vote of a majority of the
602 administrators, and all rights, privileges and benefits conferred by this Compact may
603 be terminated on the effective date of termination. A cure of the default does not
604 relieve the offending state of obligations or liabilities incurred during the period of
605 default.

606 (3) Termination of membership in this Compact shall be imposed only after all other
607 means of securing compliance have been exhausted. Notice of intent to suspend or
608 terminate shall be given by the Commission to the governor of the defaulting state and
609 to the executive officer of the defaulting state's licensing board and each of the party
610 states.

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

614 (5) The Commission shall not bear any costs related to a state that is found to be in
615 default or whose membership in this Compact has been terminated unless agreed upon
616 in writing between the Commission and the defaulting state.

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

621 (c) Dispute Resolution

622 (1) Upon request by a party state, the Commission shall attempt to resolve disputes
 623 related to the Compact that arise among party states and between party and non-party
 624 states.

625 (2) The Commission shall promulgate a rule providing for both mediation and binding
 626 dispute resolution for disputes, as appropriate.

627 (3) In the event the Commission cannot resolve disputes among party states arising
 628 under this Compact:

629 (i) The party states may submit the issues in dispute to an arbitration panel, which
 630 will be comprised of individuals appointed by the Compact administrator in each of
 631 the affected party states and an individual mutually agreed upon by the Compact
 632 administrators of all the party states involved in the dispute.

633 (ii) The decision of a majority of the arbitrators shall be final and binding.

634 (d) Enforcement

635 (1) The Commission, in the reasonable exercise of its discretion, shall enforce the
 636 provisions and rules of this Compact.

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

644 (3) The remedies herein shall not be the exclusive remedies of the Commission. The
 645 Commission may pursue any other remedies available under federal or state law.

646 ARTICLE X647 Effective Date, Withdrawal and Amendment

648 (a) This Compact shall become effective and binding on the earlier of the date of
 649 legislative enactment of this Compact into law by no less than twenty-six (26) states or
 650 December 31, 2018. All party states to this Compact, that also were parties to the prior
 651 Nurse Licensure Compact, superseded by this Compact, ('Prior Compact'), shall be
 652 deemed to have withdrawn from said Prior Compact within six (6) months after the
 653 effective date of this Compact.

654 (b) Each party state to this Compact shall continue to recognize a nurse's multistate
 655 licensure privilege to practice in that party state issued under the Prior Compact until such
 656 party state has withdrawn from the Prior Compact.

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

660 (d) A party state's withdrawal or termination shall not affect the continuing requirement
 661 of the withdrawing or terminated state's licensing board to report adverse actions and
 662 significant investigations occurring prior to the effective date of such withdrawal or
 663 termination.

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

667 (f) This Compact may be amended by the party states. No amendment to this Compact
 668 shall become effective and binding upon the party states unless and until it is enacted into
 669 the laws of all party states.

670 (g) Representatives of non-party states to this Compact shall be invited to participate in
 671 the activities of the Commission, on a nonvoting basis, prior to the adoption of this
 672 Compact by all states.

673 ARTICLE XI

674 Construction and Severability

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

684 43-26-62.

685 The Georgia Board of Nursing shall be authorized to promulgate rules and regulations to
 686 implement the provisions of this article.

687 43-26-63.

688 The executive director of the Georgia Board of Nursing shall serve as the Nurse Licensure
689 Compact administrator for this state.

690 43-26-64.

691 A registered professional nurse or licensed practical nurse practicing in this state under a
692 multistate license issued by another party state shall be subject to all requirements and
693 duties applicable to registered professional nurses or licensed practical nurses who are
694 licensed pursuant to Article 1 or Article 2 of this chapter, respectively.

695 43-26-65.

696 This article shall only be applicable to registered professional nurses and licensed practical
697 nurses whose home states are determined by the Georgia Board of Nursing to have
698 licensure requirements that are substantially equivalent to or more stringent than those of
699 this state."

700

SECTION 3.

701 All laws and parts of laws in conflict with this Act are repealed.