



January 18, 2019

SENATE BILL No. 436

DIGEST OF SB 436 (Updated January 16, 2019 12:13 pm - DI 104)

Citations Affected: IC 25-23; IC 25-42; IC 34-30.

Synopsis: Nurse licensure compact. Specifies requirements for participation by the state in a multistate nurse licensure compact, including provisions concerning: (1) nurse qualifications, practice, and participation; (2) a compact commission; (3) interstate commission and state board of nursing authority and rulemaking; (4) a coordinated licensure information system; (5) oversight and enforcement; and (6) termination or withdrawal from the compact.

Effective: July 1, 2019.

Zay, Charbonneau

January 14, 2019, read first time and referred to Committee on Health and Provider Services.
January 17, 2019, amended, reported favorably — Do Pass.

SB 436—LS 6515/DI 77



January 18, 2019

First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

SENATE BILL No. 436

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 25-23-1-7, AS AMENDED BY P.L.129-2018,
2 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]: Sec. 7. (a) The board shall do the following:
4 (1) Adopt under IC 4-22-2 rules necessary to enable it to carry
5 into effect this chapter.
6 (2) Prescribe standards and approve curricula for nursing
7 education programs preparing persons for licensure under this
8 chapter.
9 (3) Provide for surveys of such programs at such times as it
10 considers necessary.
11 (4) Accredit such programs as meet the requirements of this
12 chapter and of the board.
13 (5) Deny or withdraw accreditation from nursing education
14 programs for failure to meet prescribed curricula or other
15 standards.
16 (6) Examine, license, and renew the license of qualified
17 applicants.

SB 436—LS 6515/DI 77



- 1 (7) Issue subpoenas, compel the attendance of witnesses, and
 2 administer oaths to persons giving testimony at hearings.
 3 (8) Cause the prosecution of all persons violating this chapter and
 4 have power to incur necessary expenses for these prosecutions.
 5 (9) Adopt rules under IC 4-22-2 that do the following:
 6 (A) Prescribe standards for the competent practice of
 7 registered, practical, and advanced practice registered nursing.
 8 (B) Establish with the approval of the medical licensing board
 9 created by IC 25-22.5-2-1 requirements that advanced practice
 10 registered nurses must meet to be granted authority to
 11 prescribe legend drugs and to retain that authority.
 12 (C) Establish, with the approval of the medical licensing board
 13 created by IC 25-22.5-2-1, requirements for the renewal of a
 14 practice agreement under section 19.4 of this chapter, which
 15 shall expire on October 31 in each odd-numbered year.
 16 (10) Keep a record of all its proceedings.
 17 (11) Collect and distribute annually demographic information on
 18 the number and type of registered nurses and licensed practical
 19 nurses employed in Indiana.
 20 **(12) Adopt rules and administer the interstate nurse licensure**
 21 **compact under IC 25-42.**
 22 (b) The board may do the following:
 23 (1) Create ad hoc subcommittees representing the various nursing
 24 specialties and interests of the profession of nursing. Persons
 25 appointed to a subcommittee serve for terms as determined by the
 26 board.
 27 (2) Utilize the appropriate subcommittees so as to assist the board
 28 with its responsibilities. The assistance provided by the
 29 subcommittees may include the following:
 30 (A) Recommendation of rules necessary to carry out the duties
 31 of the board.
 32 (B) Recommendations concerning educational programs and
 33 requirements.
 34 (C) Recommendations regarding examinations and licensure
 35 of applicants.
 36 (3) Appoint nurses to serve on each of the ad hoc subcommittees.
 37 ~~(4) Withdraw from the interstate nurse licensure compact under~~
 38 ~~IC 25-23.2 (repealed).~~
 39 (c) Nurses appointed under subsection (b) must:
 40 (1) be committed to advancing and safeguarding the nursing
 41 profession as a whole; and
 42 (2) represent nurses who practice in the field directly affected by



1 a subcommittee's actions.

2 SECTION 2. IC 25-42 IS ADDED TO THE INDIANA CODE AS
3 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
4 2019]:

5 **ARTICLE 42. NURSE LICENSURE COMPACT**

6 **Chapter 1. Definitions**

7 **Sec. 1. The definitions in this chapter apply throughout this**
8 **article.**

9 **Sec. 2. "Adverse action" means any administrative, civil,**
10 **equitable, or criminal action permitted by a state's laws that is**
11 **imposed by a licensing board or other authority against a nurse,**
12 **including any of the following actions against the nurse's license or**
13 **multistate licensure privilege:**

14 (1) **Revocation.**

15 (2) **Suspension.**

16 (3) **Probation.**

17 (4) **Monitoring of the nurse.**

18 (5) **Limitation on the nurse's practice.**

19 (6) **Another encumbrance on licensure affecting the nurse's**
20 **authorization to practice, including a cease and desist order.**

21 **Sec. 3. "Alternative program" means a nondisciplinary**
22 **monitoring program approved by a licensing board.**

23 **Sec. 4. "Commission" refers to the interstate commission of**
24 **nurse licensure compact administrators established by**
25 **IC 25-42-7-1.**

26 **Sec. 5. "Coordinated licensure information system" means:**

27 (1) **an integrated process for collecting, storing, and sharing**
28 **information concerning nurse licensure and enforcement**
29 **activities related to nurse licensure laws; and**

30 (2) **a system that is administered by a nonprofit organization**
31 **composed of and controlled by licensing boards.**

32 **Sec. 6. "Current significant investigative information" means**
33 **either of the following:**

34 (1) **Investigative information that, following a preliminary**
35 **inquiry that includes notice to the nurse and an opportunity**
36 **for the nurse to respond as required by state law:**

37 (A) **a licensing board has reason to believe is not**
38 **groundless; and**

39 (B) **if proved true, would indicate more than a minor**
40 **infraction.**

41 (2) **Investigative information that, regardless of whether the**
42 **nurse has received notice and has had an opportunity to**



- 1 respond, indicates that the nurse represents an immediate
2 threat to public health and safety.
- 3 **Sec. 7. "Encumbrance" means:**
4 (1) a revocation or suspension of; or
5 (2) a limitation on;
6 the full and unrestricted practice of nursing imposed by a licensing
7 board.
- 8 **Sec. 8. "Home state" means the party state that is a nurse's**
9 **primary state of residence.**
- 10 **Sec. 9. "Licensed nurse" means a:**
11 (1) registered nurse;
12 (2) licensed practical nurse; or
13 (3) licensed vocational nurse;
14 as those terms are defined by each party state's practice laws.
- 15 **Sec. 10. "Licensing board" means a party state's regulatory**
16 **body responsible for issuing nurse licenses.**
- 17 **Sec. 11. "Multistate license" means a license to practice as a**
18 **licensed nurse that:**
19 (1) is issued by a home state licensing board; and
20 (2) authorizes the nurse to practice in all party states under a
21 multistate licensure privilege.
- 22 **Sec. 12. "Multistate licensure privilege" means a legal**
23 **authorization associated with a multistate license permitting the**
24 **practice of nursing as a licensed nurse in a remote state.**
- 25 **Sec. 13. "NCLEX" refers to the National Council Licensure**
26 **Examination.**
- 27 **Sec. 14. "Nurse license" refers to any of the following issued by**
28 **a state's regulatory body responsible for issuing nurse licenses:**
29 (1) A registered nurse license.
30 (2) A licensed practical nurse license.
31 (3) A licensed vocational nurse license.
- 32 **Sec. 15. "Party state" means a state that has adopted this**
33 **compact.**
- 34 **Sec. 16. "Remote state" means a party state other than the home**
35 **state.**
- 36 **Sec. 17. "Single state license" means a nurse license issued by a**
37 **party state that:**
38 (1) authorizes practice only within the issuing state; and
39 (2) does not include a multistate licensure privilege to practice
40 in another party state.
- 41 **Sec. 18. "State" means a state, territory, or possession of the**
42 **United States, and the District of Columbia.**



1 **Sec. 19. "State board of nursing" refers to the Indiana state**
2 **board of nursing established by IC 25-23-1-2.**

3 **Sec. 20. (a) "State practice laws" means a party state's laws,**
4 **rules, and regulations that:**

- 5 (1) govern the practice of nursing;
- 6 (2) define the scope of nursing practice; and
- 7 (3) create the methods and grounds for imposing discipline on
- 8 licensed nurses.

9 **(b) "State practice laws" does not include requirements**
10 **necessary to obtain and retain a license, other than qualifications**
11 **or requirements of a home state.**

12 **Chapter 2. Findings and Purpose**

13 **Sec. 1. The nurse licensure compact is enacted and entered into**
14 **with all other jurisdictions that legally join the compact, which is,**
15 **in form, substantially the same as this article.**

16 **Sec. 2. The party states find the following:**

- 17 (1) The health and safety of the public are affected by the
- 18 degree of compliance with and the effectiveness of
- 19 enforcement activities related to state nurse licensure laws.
- 20 (2) Violations of nurse licensure and other laws regulating the
- 21 practice of nursing may result in injury or harm to the public.
- 22 (3) The expanded mobility of nurses and the use of advanced
- 23 communication technologies as part of our nation's health
- 24 care delivery system require greater coordination and
- 25 cooperation among states in the areas of nurse licensure and
- 26 regulation.
- 27 (4) New practice modalities and technologies make
- 28 compliance with individual state nurse licensure laws difficult
- 29 and complex.
- 30 (5) The current system of duplicative licensure for nurses
- 31 practicing in multiple states is cumbersome and redundant for
- 32 nurses and states.
- 33 (6) Uniformity of nurse licensure requirements throughout
- 34 the states promotes public safety and public health benefits.

35 **Sec. 3. The general purposes of this compact are to do the**
36 **following:**

- 37 (1) Facilitate the states' responsibility to protect the public's
- 38 health and safety.
- 39 (2) Ensure and encourage the cooperation of party states in
- 40 the areas of nurse licensure and regulation.
- 41 (3) Facilitate the exchange of information between party
- 42 states in the areas of nurse regulation, investigation, and



1 adverse actions.

2 **(4) Promote compliance with laws governing the practice of**
3 **nursing in each jurisdiction.**

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

8 **(6) Decrease redundancies in the consideration and issuance**
9 **of nurse licenses.**

10 **(7) Provide opportunities for interstate practice by nurses**
11 **who meet uniform licensure requirements.**

12 **Chapter 3. General Provisions and Jurisdiction**

13 **Sec. 1. A multistate license issued by a home state to a resident**
14 **in that state will be recognized by each party state as authorizing**
15 **the resident to practice as a nurse under a multistate licensure**
16 **privilege in each party state.**

17 **Sec. 2. A state must implement procedures for considering the**
18 **criminal history records of applicants for initial multistate**
19 **licensure or licensure by endorsement, including the submission of**
20 **fingerprints or other biometric based information by applicants for**
21 **the purpose of obtaining an applicant's criminal history record**
22 **information from the Federal Bureau of Investigation and the**
23 **agency responsible for retaining that state's criminal records.**

24 **Sec. 3. Each party state shall require the following for an**
25 **applicant to obtain or retain a multistate license in the home state:**

26 **(1) The applicant meets the home state's qualifications for**
27 **licensure or renewal of licensure, as well as all other**
28 **applicable state laws.**

29 **(2) The applicant has either:**

30 **(A) graduated or is eligible to graduate from a licensing**
31 **board approved licensed nurse prelicensure education**
32 **program; or**

33 **(B) graduated from a foreign licensed nurse prelicensure**
34 **education program that has been:**

35 **(i) approved by the authorized accrediting body in the**
36 **applicable country; and**

37 **(ii) verified by an independent credentials review agency**
38 **to be comparable to a licensing board approved**
39 **prelicensure education program.**

40 **(3) If:**

41 **(A) English is not the applicant's native language; or**

42 **(B) the applicant graduated from a foreign prelicensure**



1 education program that was not taught in English;
 2 the applicant has successfully passed an English proficiency
 3 examination that includes the components of reading,
 4 speaking, writing, and listening.

5 (4) The applicant has successfully passed an NCLEX for
 6 registered nurses or NCLEX for practical nurses or
 7 recognized predecessor examination, as applicable.

8 (5) The applicant is eligible for or holds an active license
 9 without encumbrance.

10 (6) The applicant has submitted, in connection with an
 11 application for initial licensure or licensure by endorsement,
 12 fingerprints or other biometric data for the purpose of
 13 obtaining criminal history record information from the
 14 Federal Bureau of Investigation and the agency responsible
 15 for retaining that state's criminal records.

16 (7) The applicant has:

17 (A) not been convicted or found guilty; or

18 (B) entered into an agreed disposition;

19 of a felony offense under applicable state or federal criminal
 20 law.

21 (8) The applicant has:

22 (A) not been convicted or found guilty; or

23 (B) entered into an agreed disposition;

24 of a misdemeanor offense related to the practice of nursing, as
 25 determined on a case by case basis.

26 (9) The applicant is not currently enrolled in an alternative
 27 program.

28 (10) The applicant is subject to self-disclosure requirements
 29 regarding current participation in an alternative program.

30 (11) The applicant has a valid Social Security number.

31 Sec. 4. (a) All party states are authorized, in accordance with
 32 existing state due process law, to take adverse action against a
 33 nurse's multistate licensure privilege.

34 (b) If a party state takes an adverse action under subsection (a):

35 (1) the party state shall promptly notify the administrator of
 36 the coordinated licensure information system; and

37 (2) the administrator of the coordinated licensure information
 38 system shall promptly notify the home state of any adverse
 39 actions taken by remote states.

40 Sec. 5. (a) A nurse practicing in a party state shall comply with
 41 the state practice laws of the state in which the client is located at
 42 the time service is provided.



1 (b) The practice of nursing is not limited to patient care, but
2 includes all nursing practices as defined by the state practice laws
3 of the party state in which the client is located.

4 (c) The practice of nursing in a party state under a multistate
5 licensure privilege subjects a nurse to the jurisdiction of the
6 licensing board, the courts, and the laws of the party state in which
7 the client is located at the time service is provided.

8 Sec. 6. (a) Individuals not residing in a party state may apply for
9 a party state's single state license as provided under the laws of
10 each party state. However, a single state license granted to the
11 individual will not be recognized as granting the privilege to
12 practice nursing in any other party state.

13 (b) This compact does not affect the requirements established by
14 a party state for the issuance of a single state license.

15 Sec. 7. A nurse who holds a home state multistate license on the
16 effective date of this compact may retain and renew the multistate
17 license issued by the nurse's current home state. However, the
18 following apply:

19 (1) A nurse who changes primary state of residence after the
20 effective date of this compact shall meet all applicable
21 requirements of section 3 of this chapter to obtain a multistate
22 license from a new home state.

23 (2) If the nurse fails to satisfy the multistate licensure
24 requirements of section 3 of this chapter due to a
25 disqualifying event occurring after the effective date of this
26 compact:

27 (A) the nurse is ineligible to retain or renew a multistate
28 license; and

29 (B) the nurse's multistate license must be revoked or
30 deactivated in accordance with applicable rules adopted by
31 the commission.

32 Chapter 4. Application for Nurse Licensure in a Party State

33 Sec. 1. Upon receipt of an application for a multistate license,
34 the licensing board in the issuing party state shall ascertain,
35 through the coordinated licensure information system, whether:

36 (1) the applicant has ever held, or is the holder of, a license
37 issued by any other state;

38 (2) there are any encumbrances on any license or multistate
39 licensure privilege held by the applicant;

40 (3) any adverse action has been taken against any license or
41 multistate licensure privilege held by the applicant; and

42 (4) the applicant is currently participating in an alternative



- 1 **program.**
- 2 **Sec. 2. A nurse may hold a multistate license, issued by the home**
- 3 **state, in only one (1) party state at a time.**
- 4 **Sec. 3. If a nurse changes primary state of residence by moving**
- 5 **between two (2) party states, the nurse must apply for licensure in**
- 6 **the new home state, and the multistate license issued by the prior**
- 7 **home state will be deactivated in accordance with applicable rules**
- 8 **adopted by the commission, including the following:**
- 9 **(1) The nurse may apply for licensure in advance of a change**
- 10 **in primary state of residence.**
- 11 **(2) A multistate license must not be issued by the new home**
- 12 **state until the nurse:**
- 13 **(A) provides satisfactory evidence of a change in primary**
- 14 **state of residence to the new home state; and**
- 15 **(B) satisfies all applicable requirements to obtain a**
- 16 **multistate license from the new home state.**
- 17 **Sec. 4. If a nurse changes primary state of residence by moving**
- 18 **from a party state to a nonparty state, the multistate license issued**
- 19 **by the prior home state will convert to a single state license, valid**
- 20 **only in the former home state.**
- 21 **Chapter 5. Additional Authorities Invested in Party State**
- 22 **Licensing Boards**
- 23 **Sec. 1. (a) In addition to the other powers conferred by state**
- 24 **law, a licensing board may do any of the following:**
- 25 **(1) Take adverse action against a nurse's multistate licensure**
- 26 **privilege to practice within that party state, as follows:**
- 27 **(A) Only the home state may take adverse action against a**
- 28 **nurse's license issued by the home state.**
- 29 **(B) For purposes of taking adverse action, the home state**
- 30 **licensing board shall:**
- 31 **(i) give the same priority and effect to reported conduct**
- 32 **received from a remote state as it would if the conduct**
- 33 **had occurred within the home state; and**
- 34 **(ii) apply the home state's laws to determine appropriate**
- 35 **action.**
- 36 **(2) Issue cease and desist orders or impose other**
- 37 **encumbrances on a nurse's authority to practice within that**
- 38 **party state.**
- 39 **(3) With respect to pending investigations of a nurse who**
- 40 **changes primary state of residence during the course of the**
- 41 **investigations, the following:**
- 42 **(A) Complete the investigations.**



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

- (B) Take appropriate action.**
 - (4) Issue subpoenas for hearings and investigations that require the attendance and testimony of witnesses and for the production of evidence.**
 - (5) For each nurse licensure applicant:**
 - (A) obtain and submit fingerprints or other biometric based information to the Federal Bureau of Investigation for criminal background checks;**
 - (B) receive the results of the Federal Bureau of Investigation record search on criminal background checks; and**
 - (C) 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 the nurse.**
 - (7) Take adverse action based on the factual findings of a remote state, according to the licensing board's own procedures for the adverse action.**
 - (b) With respect to investigations described in subsection (a)(3):**
 - (1) the licensing board shall promptly report the conclusions of the investigations to the administrator of the coordinated licensure information system; and**
 - (2) the administrator of the coordinated licensure information system shall promptly notify the new home state of any actions taken under subsection (a)(3).**
 - (c) 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 as described in subsection (a)(4) must be enforced in the other party state:**
 - (1) by a court of competent jurisdiction; and**
 - (2) according to the practice and procedure of the court applicable to subpoenas issued in proceedings pending before the court.**
- 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.**
- Sec. 2. (a) If adverse action is taken by the home state against a nurse's multistate license, the nurse's multistate licensure privilege to practice in all other party states must be deactivated until all encumbrances have been removed from the multistate license.**
- (b) All home state disciplinary orders that impose adverse**



1 action against a nurse's multistate license must include a statement
2 that the nurse's multistate licensure privilege is deactivated in all
3 party states during the pendency of the order.

4 Sec. 3. (a) This compact does not override a party state's
5 decision that participation in an alternative program may be used
6 in lieu of adverse action.

7 (b) In the case of a party state decision described in subsection
8 (a), the home state licensing board shall deactivate the multistate
9 licensure privilege under the multistate license of the nurse for the
10 duration of the nurse's participation in the alternative program.

11 **Chapter 6. Coordinated Licensure Information System and**
12 **Exchange of Information**

13 Sec. 1. (a) All party states shall participate in a coordinated
14 licensure information system of all licensed nurses.

15 (b) The coordinated licensure information system must include
16 information submitted by party states:

17 (1) concerning the licensure and disciplinary history of each
18 nurse; and

19 (2) to assist in the coordination of nurse licensure and
20 enforcement.

21 Sec. 2. The commission, in consultation with the administrator
22 of the coordinated licensure information system, shall formulate
23 necessary and proper procedures for the identification, collection,
24 and exchange of information under this compact.

25 Sec. 3. All licensing boards shall promptly report to the
26 coordinated licensure information system any:

27 (1) adverse action;

28 (2) current significant investigative information;

29 (3) denials of applications and reasons for the denials; and

30 (4) nurse participation in alternative programs known to the
31 licensing board, regardless of whether the participation is
32 considered to be nonpublic or confidential under state law.

33 Sec. 4. Current significant investigative information and
34 participation in nonpublic or confidential alternative programs
35 must be transmitted through the coordinated licensure information
36 system only to party state licensing boards.

37 Sec. 5. Notwithstanding any other law, all party state licensing
38 boards contributing information to the coordinated licensure
39 information system may designate information that may not be
40 shared with nonparty states or disclosed to other entities or
41 individuals without the express permission of the contributing
42 state.



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

7 **Sec. 7. Information contributed to the coordinated licensure**
8 **information system that is subsequently required to be expunged**
9 **by the laws of the party state contributing that information must**
10 **also be expunged from the coordinated licensure information**
11 **system.**

12 **Sec. 8. The compact administrator of each party state shall**
13 **furnish a uniform data set to the compact administrator of each**
14 **other party state, which must include, at a minimum, the following:**

15 **(1) Identifying information.**

16 **(2) Licensure data.**

17 **(3) Information related to alternative program participation.**

18 **(4) Other information that may facilitate the administration**
19 **of this compact, as determined by commission rules.**

20 **Sec. 9. The compact administrator of a party state shall provide**
21 **all investigative documents and information requested by another**
22 **party state.**

23 **Chapter 7. Establishment of the Interstate Commission of Nurse**
24 **Licensure Compact Administrators**

25 **Sec. 1. (a) The party states create and establish a joint public**
26 **entity known as the interstate commission of nurse licensure**
27 **compact administrators.**

28 **(b) The commission is an instrumentality of the party states.**

29 **(c) Venue is proper, and judicial proceedings by or against the**
30 **commission must be brought solely and exclusively in a court of**
31 **competent jurisdiction where the principal office of the commission**
32 **is located.**

33 **(d) The commission may waive venue and jurisdictional**
34 **defenses to the extent the commission adopts or consents to**
35 **participate in alternative dispute resolution proceedings.**

36 **Sec. 2. This compact does not waive sovereign immunity.**

37 **Sec. 3. (a) Each party state has and is limited to one (1)**
38 **administrator. The head of the state licensing board of each party**
39 **state, or designee, is the administrator of this compact for each**
40 **party state. An administrator may be removed or suspended from**
41 **office as provided by the law of the state from which the**
42 **administrator is appointed.**



1 (b) A vacancy occurring in the commission must be filled in
2 accordance with the laws of the party state in which the vacancy
3 exists.

4 (c) Each administrator is entitled to one (1) vote with regard to
5 the promulgation of rules and creation of bylaws and shall
6 otherwise have an opportunity to participate in the business and
7 affairs of the commission. An administrator shall vote in person or
8 by other means provided in the bylaws. The bylaws may provide
9 for an administrator's participation in meetings by telephone or
10 other means of communication.

11 Sec. 4. The commission shall meet at least one (1) time during
12 each calendar year. Additional meetings must be held as set forth
13 in the bylaws or rules of the commission.

14 Sec. 5. All meetings must be open to the public, and public notice
15 of meetings must be given in the same manner as required under
16 the rulemaking provisions in IC 25-42-8.

17 Sec. 6. The commission may convene in a closed, nonpublic
18 meeting if the commission must discuss any of the following:

19 (1) Noncompliance of a party state with the party state's
20 obligations under this compact.

21 (2) The employment, compensation, discipline, or other
22 personnel matters, practices, or procedures related to specific
23 employees or other matters related to the commission's
24 internal personnel practices and procedures.

25 (3) Current, threatened, or reasonably anticipated litigation.

26 (4) Negotiation of contracts for the purchase or sale of goods,
27 services, or real estate.

28 (5) Accusing a person of a crime or formally censuring a
29 person.

30 (6) Disclosure of trade secrets or commercial or financial
31 information that is privileged or confidential.

32 (7) Disclosure of information of a personal nature where
33 disclosure would constitute a clearly unwarranted invasion of
34 personal privacy.

35 (8) Disclosure of investigatory records compiled for law
36 enforcement purposes.

37 (9) Disclosure of information related to reports prepared by
38 or on behalf of the commission for the purpose of
39 investigation of compliance with this compact.

40 (10) Matters specifically exempted from disclosure by federal
41 or state statute.

42 Sec. 7. (a) If a meeting or part of a meeting is closed under



1 section 6 of this chapter, the commission's legal counsel or designee
2 shall certify that the meeting may be closed and shall reference
3 each relevant exempting provision.

4 (b) The commission shall keep minutes that fully and clearly
5 describe all matters discussed in a meeting and shall provide a full
6 and accurate summary of actions taken, and the reasons for the
7 actions, including a description of the views expressed.

8 (c) All documents considered in connection with an action must
9 be identified in the minutes of the meeting.

10 (d) All minutes and documents of a closed meeting must remain
11 under seal, subject to release by a majority vote of the commission
12 or order of a court of competent jurisdiction.

13 Sec. 8. (a) The commission shall, by a majority vote of the
14 administrators, prescribe bylaws or rules to govern the
15 commission's conduct to carry out the purposes and exercise the
16 powers of this compact, including the following:

17 (1) Establishing the fiscal year of the commission.

18 (2) Providing reasonable standards and procedures:

19 (A) for the establishment and meetings of other
20 committees; and

21 (B) governing general or specific delegation of any
22 authority or function of the commission.

23 (3) Providing reasonable procedures for calling and
24 conducting meetings of the commission, ensuring reasonable
25 advance notice of all meetings and providing an opportunity
26 for attendance of the meetings by interested parties, including
27 the following:

28 (A) Enumerated exceptions designed to protect the public's
29 interest, the privacy of individuals, and proprietary
30 information, including trade secrets.

31 (B) A provision:

32 (i) allowing the commission to meet in closed session only
33 after a majority of the administrators vote with no proxy
34 voting to close a meeting in whole or in part; and

35 (ii) if the commission meets in closed session as described
36 in item (i), requiring the commission to, as soon as
37 practicable, make public a copy of the vote to close the
38 meeting and revealing the vote of each administrator.

39 (4) Establishing the titles, duties, and authority and
40 reasonable procedures for the election of the officers of the
41 commission.

42 (5) Providing reasonable standards and procedures for the



1 establishment of the personnel policies and programs of the
 2 commission.
 3 **(6) Providing a mechanism for winding up the operations of**
 4 **the commission and the equitable disposition of any surplus**
 5 **funds that may exist after the termination of this compact**
 6 **after the payment or reserving of all of the commission's debts**
 7 **and obligations.**
 8 **(b) Notwithstanding any civil service or other similar laws of**
 9 **any party state, the bylaws prescribed under this section**
 10 **exclusively govern the personnel policies and programs of the**
 11 **commission.**
 12 **Sec. 9. The commission shall do all of the following:**
 13 **(1) Publish the commission's bylaws and rules and any**
 14 **amendments to the bylaws and rules in a convenient form on**
 15 **the Internet web site of the commission.**
 16 **(2) Maintain the commission's financial records in accordance**
 17 **with the bylaws.**
 18 **(3) Meet and take actions consistent with the provisions of this**
 19 **compact and the bylaws.**
 20 **Sec. 10. The commission has the following powers:**
 21 **(1) To promulgate uniform rules:**
 22 **(A) having the force and effect of law; and**
 23 **(B) binding in all party states;**
 24 **to facilitate and coordinate implementation and**
 25 **administration of this compact.**
 26 **(2) To bring and prosecute legal proceedings or actions in the**
 27 **name of the commission, provided that the standing of any**
 28 **licensing board to sue or be sued under applicable law shall**
 29 **not be affected.**
 30 **(3) To purchase and maintain insurance and bonds.**
 31 **(4) To borrow, accept, or contract for services of personnel,**
 32 **including employees of a party state or nonprofit**
 33 **organizations.**
 34 **(5) To cooperate with other organizations that administer**
 35 **state compacts related to the regulation of nursing, including**
 36 **sharing administrative or staff expenses, office space, or other**
 37 **resources.**
 38 **(6) To hire employees, elect or appoint officers, fix**
 39 **compensation, define duties, grant the employees and officers**
 40 **appropriate authority to carry out the purposes of this**
 41 **compact, and to establish the commission's personnel policies**
 42 **and programs relating to conflicts of interest, qualifications**



- 1 of personnel, and related personnel matters.
- 2 (7) To accept, receive, use, and dispose of appropriate
- 3 donations, grants, and gifts of money, equipment, supplies,
- 4 materials, and services while avoiding any appearance of
- 5 impropriety or conflict of interest.
- 6 (8) To lease, purchase, and accept appropriate gifts or
- 7 donations of, or otherwise to own, hold, improve, or use, any
- 8 real, personal, or mixed property while avoiding any
- 9 appearance of impropriety.
- 10 (9) To sell, convey, mortgage, pledge, lease, exchange,
- 11 abandon, or otherwise dispose of real, personal, or mixed
- 12 property.
- 13 (10) To establish a budget and make expenditures.
- 14 (11) To borrow money.
- 15 (12) To appoint committees, including advisory committees
- 16 comprised of administrators, state nursing regulators, state
- 17 legislators or their representatives, consumer representatives,
- 18 and other interested persons.
- 19 (13) To provide and receive information from, and to
- 20 cooperate with, law enforcement agencies.
- 21 (14) To adopt and use an official seal.
- 22 (15) To perform other necessary or appropriate functions to
- 23 achieve the purposes of this compact consistent with the state
- 24 regulation of nurse licensure and practice.
- 25 **Sec. 11. (a) The commission shall pay, or provide for the**
- 26 **payment of, the reasonable expenses of the commission's**
- 27 **establishment, organization, and ongoing activities.**
- 28 **(b) The commission may also levy on and collect an annual**
- 29 **assessment from each party state to cover the cost of the**
- 30 **commission's operations, activities, and staff in the commission's**
- 31 **annual budget as approved each year. The aggregate annual**
- 32 **assessment amount, if any, must be allocated based on a formula**
- 33 **determined by the commission by promulgation of a rule that is**
- 34 **binding on all party states.**
- 35 **(c) The commission shall not:**
- 36 **(1) incur an obligation of any kind before securing funds**
- 37 **adequate to meet the obligation; or**
- 38 **(2) pledge the credit of any party state, except by and with the**
- 39 **authority of, the party state.**
- 40 **(d) The commission shall keep accurate accounts of all receipts**
- 41 **and disbursements. The receipts and disbursements of the**
- 42 **commission are subject to the audit and accounting procedures**



1 established under the commission's bylaws. However, all receipts
2 and disbursements of funds handled by the commission must be
3 audited annually by a certified or licensed public accountant, and
4 the report of the audit must be included in and be part of the
5 annual report of the commission.

6 Sec. 12. (a) The administrators, officers, executive director,
7 employees, and representatives of the commission are immune
8 from suit and liability, either personally or in their official
9 capacity, for any claim for damage to or loss of property, personal
10 injury, or another civil liability caused by or arising out of an
11 actual or alleged act, error, or omission that occurred, or that the
12 person against whom the claim is made had a reasonable basis for
13 believing occurred within the scope of commission employment,
14 duties, or responsibilities.

15 (b) Subsection (a) does not protect an administrator, officer,
16 executive director, employee, or representative of the commission
17 from suit or liability for any damage, loss, injury, or liability
18 caused by the intentional, willful, or wanton misconduct of that
19 person.

20 (c) The commission shall defend an administrator, officer,
21 executive director, employee, or representative of the commission
22 in a civil action seeking to impose liability arising out of an actual
23 or alleged act, error, or omission that occurred within the scope of
24 commission employment, duties, or responsibilities, or that the
25 person against whom the claim is made had a reasonable basis for
26 believing occurred within the scope of commission employment,
27 duties, or responsibilities.

28 (d) Subsection (c) does not do the following:

29 (1) Prohibit the administrator, officer, executive director,
30 employee, or representative of the commission from retaining
31 that person's own counsel.

32 (2) Require the commission to defend the administrator,
33 officer, executive director, employee, or representative of the
34 commission if the actual or alleged act, error, or omission
35 resulted from that person's intentional, willful, or wanton
36 misconduct.

37 (e) The commission shall indemnify and hold harmless an
38 administrator, officer, executive director, employee, or
39 representative of the commission for the amount of any settlement
40 or judgment obtained against that person arising out of an actual
41 or alleged act, error, or omission that occurred within the scope of
42 commission employment, duties, or responsibilities, or that the



1 person had a reasonable basis for believing occurred within the
2 scope of commission employment, duties, or responsibilities.

3 (f) Subsection (e) does not require the commission to indemnify
4 or hold harmless an administrator, officer, executive director,
5 employee, or representative of the commission if the actual or
6 alleged act, error, or omission resulted from the intentional, willful,
7 or wanton misconduct of that person.

8 **Chapter 8. Rulemaking**

9 **Sec. 1.** The commission shall exercise the commission's
10 rulemaking powers according to the criteria set forth in, and the
11 rules adopted under, this chapter. Rules and amendments are
12 binding as of the date specified in each rule or amendment and
13 have the same force and effect as provisions of this compact.

14 **Sec. 2.** Rules or amendments to the rules must be adopted at a
15 regular or special meeting of the commission.

16 **Sec. 3.** Before promulgation and adoption of a final rule by the
17 commission, and at least sixty (60) days before the meeting at
18 which the rule will be considered and voted on is held, the
19 commission shall file a notice of proposed rulemaking:

- 20 (1) on the Internet web site of the commission; and
21 (2) on the Internet web site of each licensing board or in the
22 publication in which each state would otherwise publish
23 proposed administrative rules.

24 **Sec. 4.** The notice of proposed rulemaking must include all of
25 the following:

- 26 (1) The proposed time, date, and location of the meeting at
27 which the rule will be considered and voted on.
28 (2) The text of the proposed rule or amendment and the
29 reason for the proposed rule.
30 (3) A request for comments on the proposed rule from any
31 interested person.
32 (4) The manner in which an interested person may submit:
33 (A) notice to the commission of the interested person's
34 intention to attend the public hearing; and
35 (B) written comments.

36 **Sec. 5. (a)** Before adoption of a proposed rule, the commission
37 shall allow persons to submit written data, facts, opinions, and
38 arguments.

39 (b) Submitted information and documents described in
40 subsection (a) must be made available to the public.

41 **Sec. 6. (a)** The commission shall grant an opportunity for a
42 public hearing before the commission adopts a rule or amendment.



1 (b) The commission shall publish the place, time, and date of the
2 scheduled public hearing.

3 (c) A public hearing must be conducted in a manner providing
4 each person who wishes to comment a fair and reasonable
5 opportunity to comment orally or in writing. All hearings must be
6 recorded and a copy of the record must be made available to the
7 public upon request.

8 (d) This section does not require a separate hearing on each
9 rule. Rules may be grouped for the convenience of the commission
10 at hearings required by this section.

11 (e) If no one appears at a public hearing, the commission may
12 proceed with promulgation of the proposed rule.

13 Sec. 7. (a) Following the scheduled hearing date, or by the close
14 of business on the scheduled hearing date if the hearing was not
15 held, the commission shall consider all written and oral comments
16 received.

17 (b) The commission shall, by majority vote of all administrators,
18 take final action on the proposed rule and determine the effective
19 date of the rule, if any, based on the rulemaking record and the full
20 text of the rule.

21 Sec. 8. (a) For purposes of this section, an emergency rule is a
22 rule that must be adopted immediately to do at least one (1) of the
23 following:

24 (1) Meet an imminent threat to public health, safety, or
25 welfare.

26 (2) Prevent a loss of commission or party state funds.

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

29 (b) Upon determination that an emergency exists, the
30 commission may consider and adopt an emergency rule without
31 prior notice, opportunity for comment, or hearing. However, the
32 usual rulemaking procedures provided in this compact and in this
33 chapter must be retroactively applied to the rule as soon as
34 reasonably possible, and in no event later than ninety (90) days
35 after the effective date of the rule.

36 Sec. 9. (a) The commission may direct revisions to a previously
37 adopted rule or amendment for purposes of correcting
38 typographical errors, errors in format, errors in consistency, or
39 grammatical errors.

40 (b) Public notice of any revisions must be posted on the Internet
41 web site of the commission. A revision is subject to challenge by
42 any person for thirty (30) days after posting. A revision may be



1 challenged only on grounds that the revision results in a material
 2 change to a rule. A challenge must be made in writing and
 3 delivered to the commission prior to the end of the notice period.
 4 If no challenge is made, the revision will take effect without further
 5 action. If the revision is challenged, the revision may not take effect
 6 without the approval of the commission.

7 **Chapter 9. Oversight, Dispute Resolution, and Enforcement**

8 **Sec. 1. Each party state shall enforce this compact and take all**
 9 **actions necessary and appropriate to effectuate this compact's**
 10 **purposes and intent.**

11 **Sec. 2. The commission:**

12 (1) is entitled to receive service of process in a proceeding that
 13 may affect the powers, responsibilities, or actions of the
 14 commission; and

15 (2) has standing to intervene in a proceeding described in
 16 subdivision (1) for all purposes.

17 Failure to provide service of process in a proceeding to the
 18 commission renders a judgment or order void as to the
 19 commission, this compact, or promulgated rules.

20 **Sec. 3. If the commission determines that a party state has**
 21 **defaulted in the performance of the party state's obligations or**
 22 **responsibilities under this compact or the promulgated rules, the**
 23 **commission shall:**

24 (1) provide written notice to the defaulting state and other
 25 party states of the nature of the default, the proposed means
 26 of curing the default, or another action to be taken by the
 27 commission; and

28 (2) provide remedial training and specific technical assistance
 29 regarding the default.

30 **Sec. 4. (a) If a state in default fails to cure the default, the**
 31 **defaulting state's membership in this compact may be terminated**
 32 **upon an affirmative vote of a majority of the administrators, and**
 33 **all rights, privileges, and benefits conferred by this compact may**
 34 **be terminated on the effective date of termination.**

35 (b) A cure of the default does not relieve the offending state of
 36 obligations or liabilities incurred during the period of default.

37 **Sec. 5. Termination of membership in this compact must be**
 38 **imposed only after all other means of securing compliance have**
 39 **been exhausted. Notice of intent to suspend or terminate must be**
 40 **given by the commission to the governor of the defaulting state and**
 41 **to the executive officer of the defaulting state's licensing board and**
 42 **each of the party states.**



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

6 **Sec. 7. The commission does not bear any costs related to a state**
7 **that is found to be in default or whose membership in this compact**
8 **has been terminated, unless agreed upon in writing between the**
9 **commission and the defaulting state.**

10 **Sec. 8. The defaulting state may appeal the action of the**
11 **commission by petitioning the United States District Court for the**
12 **District of Columbia or the federal district in which the**
13 **commission has the commission's principal offices. The prevailing**
14 **party must be awarded all costs of the litigation, including**
15 **reasonable attorney's fees.**

16 **Sec. 9. (a) Upon request by a party state, the commission shall**
17 **attempt to resolve disputes related to this compact that arise**
18 **among party states and between party and nonparty states.**

19 **(b) The commission shall promulgate a rule providing for both**
20 **mediation and binding dispute resolution for disputes, as**
21 **appropriate.**

22 **(c) If the commission cannot resolve disputes among party states**
23 **arising under this compact:**

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

30 **(2) the decision of a majority of the arbitrators is final and**
31 **binding.**

32 **Sec. 10. (a) The commission, in the reasonable exercise of the**
33 **commission's discretion, shall enforce the provisions and rules of**
34 **this compact.**

35 **(b) By majority vote, the commission may initiate legal action**
36 **in the United States District Court for the District of Columbia or**
37 **the federal district in which the commission has the commission's**
38 **principal offices against a party state that is in default to enforce**
39 **compliance with the provisions of this compact and the**
40 **commission's promulgated rules and bylaws. The relief sought may**
41 **include both injunctive relief and damages. In the event judicial**
42 **enforcement is necessary, the prevailing party must be awarded all**



1 costs of the litigation, including reasonable attorney's fees.

2 (c) The remedies described in this section are not the exclusive
3 remedies of the commission. The commission may pursue any other
4 remedies available under federal or state law.

5 **Chapter 10. Withdrawal and Amendment**

6 **Sec. 1. (a)** Any party state may withdraw from this compact by
7 enacting a statute repealing the compact. A party state's
8 withdrawal does not take effect until six (6) months after
9 enactment of the repealing statute.

10 (b) A party state's withdrawal or termination does not affect the
11 continuing requirement of the withdrawing or terminated state's
12 licensing board to report adverse actions and significant
13 investigations occurring before the effective date of the withdrawal
14 or termination.

15 (c) This compact does not invalidate or prevent any nurse
16 licensure agreement or other cooperative arrangement between a
17 party state and a nonparty state that is made in accordance with
18 the other provisions of this compact.

19 (d) This compact may be amended by the party states. An
20 amendment to this compact is not effective and binding on the
21 party states until the amendment is enacted into the laws of all
22 party states.

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

26 **Chapter 11. Construction and Severability**

27 **Sec. 1.** This compact must be liberally construed so as to
28 effectuate the purposes of the compact. The provisions of this
29 compact are severable, and if any phrase, clause, sentence, or
30 provision of the compact is declared to be contrary to the
31 constitution of any party state or of the United States, or if the
32 applicability of the compact to any government, agency, person, or
33 circumstance is held invalid, the validity of the remainder of the
34 compact and the applicability of the compact to any government,
35 agency, person, or circumstance is not affected.

36 **Sec. 2.** If this compact is held to be contrary to the constitution
37 of any party state, the compact remains in full force and effect as
38 to the:

- 39 (1) remaining party states; and
40 (2) party state affected;
41 as to all severable matters.

42 **Sec. 3.** This compact takes effect on July 1, 2019.



1 SECTION 3. IC 34-30-2-101.6 IS ADDED TO THE INDIANA
2 CODE AS A NEW SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2019]: **Sec. 101.6. IC 25-42-7-12 (Concerning**
4 **acts and omissions under the interstate nurse licensure compact).**



COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 436, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 6, line 17, delete "Each party" and insert "A".

Page 6, line 20, delete "data" and insert "**based information**".

Page 10, line 6, delete "data" and insert "**based information**".

and when so amended that said bill do pass.

(Reference is to SB 436 as introduced.)

CHARBONNEAU, Chairperson

Committee Vote: Yeas 11, Nays 0.

