

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 342

Introduced by Erdman, 47; at the request of the Governor.

Read first time January 12, 2017

Committee:

- 1 A BILL FOR AN ACT relating to nurses; to amend sections 38-2201, 38-2202,
2 38-2223, and 38-2225, Reissue Revised Statutes of Nebraska; to
3 define a term; to provide for licensure by reciprocity for military
4 spouses as prescribed; to provide for temporary licenses; to adopt
5 the Nurse Licensure Compact; to provide for termination of and
6 withdrawal from the prior Nurse Licensure Compact; to harmonize
7 provisions; and to repeal the original sections.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 38-2201, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 38-2201 Sections 38-2201 to 38-2236 and section 3 of this act shall
4 be known and may be cited as the Nurse Practice Act.

5 Sec. 2. Section 38-2202, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 38-2202 For purposes of the Nurse Practice Act and elsewhere in the
8 Uniform Credentialing Act, unless the context otherwise requires, the
9 definitions found in sections 38-2203 to 38-2212 and section 3 of this
10 act apply.

11 Sec. 3. Military spouse means the spouse of an officer or enlisted
12 person on active duty in the armed forces of the United States.

13 Sec. 4. Section 38-2223, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 38-2223 (1) Except as otherwise provided in subsection (2) of this
16 section, an ~~an~~ applicant for a license as a registered nurse or a
17 licensed practical nurse based on licensure in another jurisdiction shall
18 meet the continuing competency requirements as specified in rules and
19 regulations adopted and promulgated by the board in addition to the
20 standards set by the board pursuant to section 38-126.

21 (2)(a) In lieu of meeting the requirements in sections 38-2220 to
22 38-2222, a military spouse may apply for a license under the Nurse
23 Practice Act if he or she:

24 (i)(A) Holds a license from another jurisdiction, (B) the licensure
25 requirements of such other jurisdiction meet or exceed the requirements
26 for the type of licensure requested under the Nurse Practice Act, (C) the
27 license is current, valid, and not subject to discipline by the agency
28 which issued the license, and (D) the license has not been disciplined by
29 the agency which issued the license;

30 (ii) Demonstrates competency commensurate to the license requested
31 as prescribed by the department, with the recommendation of the board,

1 including recent experience and continuing competency activities; and
2 (iii) Has not been disciplined in any jurisdiction for an act that
3 would have constituted grounds for refusal, suspension, or revocation of
4 a license to practice under the Nurse Practice Act at the time the act
5 was committed.

6 (b) A military spouse holding a temporary license to practice
7 nursing under subdivision (1)(d) of section 38-2225 shall receive
8 priority processing of his or her license application under this
9 subsection.

10 Sec. 5. Section 38-2225, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 38-2225 (1) A temporary license to practice nursing may be issued
13 to:

14 (a) An individual seeking to obtain licensure or reinstatement of
15 his or her license as a registered nurse or licensed practical nurse when
16 he or she has not practiced nursing in the last five years. A temporary
17 license issued under this subdivision is valid only for the duration of
18 the review course of study and only for nursing practice required for the
19 review course of study;

20 (b) Graduates of approved programs of nursing who have passed the
21 licensure examination, pending the completion of application for Nebraska
22 licensure as a registered nurse or licensed practical nurse. A temporary
23 license issued under this subdivision is valid for a period not to exceed
24 sixty days;~~or~~

25 (c) Nurses currently licensed in another state as either a
26 registered nurse or a licensed practical nurse who have graduated from an
27 educational program approved by the board, pending completion of
28 application for Nebraska licensure as a registered nurse or licensed
29 practical nurse. A temporary license issued under this subdivision shall
30 be valid for a period not to exceed sixty days; or -

31 (d) An applicant for a license under subsection (2) of section

1 38-2223 if the applicant meets the requirements of subdivision (2)(a)(i)
2 (A) and (B) of section 38-2223. The applicant may practice using the
3 temporary license until a license is granted under the Nurse Practice Act
4 or until a notice to deny a license is issued by the department. The
5 department, with the recommendation of the board, shall adopt and
6 promulgate rules and regulations for the issuance of a temporary license
7 under this subdivision to ensure the public health and safety.

8 (2) A temporary license issued pursuant to this section may be
9 extended by the department, with the recommendation of the board.

10 ~~(3) An individual holding a temporary permit to practice nursing on~~
11 ~~December 1, 2008, shall be deemed to be holding a temporary license under~~
12 ~~this section on such date. The permit holder may continue to practice~~
13 ~~under such temporary permit as a temporary license until it would have~~
14 ~~expired under its terms or after any period of extension under subsection~~
15 ~~(2) of this section.~~

16 Sec. 6. The State of Nebraska adopts the Nurse Licensure Compact in
17 the form substantially as follows:

18 Nurse Licensure Compact

19 Approved by the May 4, 2015, Special Delegate Assembly

20 ARTICLE I

21 Findings and Declaration of Purpose

22 a. The party states find that:

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

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

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

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

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

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

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

9 1. Facilitate the states' responsibility to protect the public's
10 health and safety;

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

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

15 4. Promote compliance with the laws governing the practice of
16 nursing in each jurisdiction;

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

21 6. Decrease redundancies in the consideration and issuance of nurse
22 licenses; and

23 7. Provide opportunities for interstate practice by nurses who meet
24 uniform licensure requirements.

25 ARTICLE II

26 Definitions

27 As used in this Compact:

28 a. Adverse action means any administrative, civil, equitable or
29 criminal action permitted by a state's laws which is imposed by a
30 licensing board or other authority against a nurse, including actions
31 against an individual's license or multistate licensure privilege such as

1 revocation, suspension, probation, monitoring of the licensee, limitation
2 on the licensee's practice, or any other encumbrance on licensure
3 affecting a nurse's authorization to practice, including issuance of a
4 cease and desist action.

5 b. Alternative program means a nondisciplinary monitoring program
6 approved by a licensing board.

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

12 d. Current significant investigative information means:

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

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

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

24 f. Home state means the party state which is the nurse's primary
25 state of residence.

26 g. Licensing board means a party state's regulatory body responsible
27 for issuing nurse licenses.

28 h. Multistate license means a license to practice as a registered or
29 a licensed practical/vocational nurse (LPN/VN) issued by a home state
30 licensing board that authorizes the licensed nurse to practice in all
31 party states under a multistate licensure privilege.

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

5 j. Nurse means a registered nurse or a licensed practical/vocational
6 nurse, as those terms are defined by each party state's practice laws.

7 k. Party state means any state that has adopted this Compact.

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

9 m. Single-state license means a nurse license issued by a party
10 state that authorizes practice only within the issuing state and does not
11 include a multistate licensure privilege to practice in any other party
12 state.

13 n. State means a state, territory or possession of the United States
14 and the District of Columbia.

15 o. State practice laws means a party state's laws, rules and
16 regulations that govern the practice of nursing, define the scope of
17 nursing practice, and create the methods and grounds for imposing
18 discipline. State practice laws do not include requirements necessary to
19 obtain and retain a license, except for qualifications or requirements of
20 the home state.

21 ARTICLE III

22 General Provisions and Jurisdiction

23 a. A multistate license to practice registered or licensed
24 practical/vocational nursing issued by a home state to a resident in that
25 state will be recognized by each party state as authorizing a nurse to
26 practice as a registered nurse (RN) or as a licensed practical/vocational
27 nurse (LPN/VN), under a multistate licensure privilege, in each party
28 state.

29 b. A state must implement procedures for considering the criminal
30 history records of applicants for initial multistate license or licensure
31 by endorsement. Such procedures shall include the submission of

1 fingerprints or other biometric-based information by applicants for the
2 purpose of obtaining an applicant's criminal history record information
3 from the Federal Bureau of Investigation and the agency responsible for
4 retaining that state's criminal records.

5 c. Each party state shall require the following for an applicant to
6 obtain or retain a multistate license in the home state:

7 1. Meets the home state's qualifications for licensure or renewal of
8 licensure, as well as, all other applicable state laws;

9 2. i. Has graduated or is eligible to graduate from a licensing
10 board-approved registered nurse or licensed practical/vocational nurse
11 prelicensure education program; or

12 ii. Has graduated from a foreign registered nurse or licensed
13 practical/vocational nurse prelicensure education program that (a) has
14 been approved by the authorized accrediting body in the applicable
15 country and (b) has been verified by an independent credentials review
16 agency to be comparable to a licensing board-approved prelicensure
17 education program;

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

22 4. Has successfully passed an NCLEX-RN® or NCLEX-PN® Examination or
23 recognized predecessor, as applicable;

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

25 6. Has submitted, in connection with an application for initial
26 licensure or licensure by endorsement, fingerprints or other biometric
27 data for the purpose of obtaining criminal history record information
28 from the Federal Bureau of Investigation and the agency responsible for
29 retaining that state's criminal records;

30 7. Has not been convicted or found guilty, or has entered into an
31 agreed disposition, of a felony offense under applicable state or federal

1 criminal law;

2 8. Has not been convicted or found guilty, or has entered into an
3 agreed disposition, of a misdemeanor offense related to the practice of
4 nursing as determined on a case-by-case basis;

5 9. Is not currently enrolled in an alternative program;

6 10. Is subject to self-disclosure requirements regarding current
7 participation in an alternative program; and

8 11. Has a valid United States social security number.

9 d. All party states shall be authorized, in accordance with existing
10 state due process law, to take adverse action against a nurse's
11 multistate licensure privilege such as revocation, suspension, probation
12 or any other action that affects a nurse's authorization to practice
13 under a multistate licensure privilege, including cease and desist
14 actions. If a party state takes such action, it shall promptly notify the
15 administrator of the coordinated licensure information system. The
16 administrator of the coordinated licensure information system shall
17 promptly notify the home state of any such actions by remote states.

18 e. A nurse practicing in a party state must comply with the state
19 practice laws of the state in which the client is located at the time
20 service is provided. The practice of nursing is not limited to patient
21 care, but shall include all nursing practice as defined by the state
22 practice laws of the party state in which the client is located. The
23 practice of nursing in a party state under a multistate licensure
24 privilege will subject a nurse to the jurisdiction of the licensing
25 board, the courts and the laws of the party state in which the client is
26 located at the time service is provided.

27 f. Individuals not residing in a party state shall continue to be
28 able to apply for a party state's single-state license as provided under
29 the laws of each party state. However, the single-state license granted
30 to these individuals will not be recognized as granting the privilege to
31 practice nursing in any other party state. Nothing in this Compact shall

1 affect the requirements established by a party state for the issuance of
2 a single-state license.

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

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

9 2. A nurse who fails to satisfy the multistate licensure
10 requirements in Article III.c. due to a disqualifying event occurring
11 after this Compact's effective date shall be ineligible to retain or
12 renew a multistate license, and the nurse's multistate license shall be
13 revoked or deactivated in accordance with applicable rules adopted by the
14 Interstate Commission of Nurse Licensure Compact Administrators.

15 ARTICLE IV

16 Applications for Licensure in a Party State

17 a. Upon application for a multistate license, the licensing board in
18 the issuing party state shall ascertain, through the coordinated
19 licensure information system, whether the applicant has ever held, or is
20 the holder of, a license issued by any other state, whether there are any
21 encumbrances on any license or multistate licensure privilege held by the
22 applicant, whether any adverse action has been taken against any license
23 or multistate licensure privilege held by the applicant and whether the
24 applicant is currently participating in an alternative program.

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

27 c. If a nurse changes primary state of residence by moving between
28 two party states, the nurse must apply for licensure in the new home
29 state, and the multistate license issued by the prior home state will be
30 deactivated in accordance with applicable rules adopted by the Interstate
31 Commission of Nurse Licensure Compact Administrators.

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

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

7 d. If a nurse changes primary state of residence by moving from a
8 party state to a nonparty state, the multistate license issued by the
9 prior home state will convert to a single-state license, valid only in
10 the former home state.

11 ARTICLE V

12 Additional Authorities Invested in Party State Licensing Boards

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

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

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

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

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

26 3. Complete any pending investigations of a nurse who changes
27 primary state of residence during the course of such investigations. The
28 licensing board shall also have the authority to take appropriate actions
29 and shall promptly report the conclusions of such investigations to the
30 administrator of the coordinated licensure information system. The
31 administrator of the coordinated licensure information system shall

1 promptly notify the new home state of any such actions.

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

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

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

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

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

31 c. Nothing in this Compact shall override a party state's decision

1 that participation in an alternative program may be used in lieu of
2 adverse action. The home state licensing board shall deactivate the
3 multistate licensure privilege under the multistate license of any nurse
4 for the duration of the nurse's participation in an alternative program.

5 ARTICLE VI

6 Coordinated Licensure Information System and Exchange of Information

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

13 b. The Interstate Commission of Nurse Licensure Compact
14 Administrators, in consultation with the administrator of the coordinated
15 licensure information system, shall formulate necessary and proper
16 procedures for the identification, collection and exchange of information
17 under this Compact.

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

24 d. Current significant investigative information and participation
25 in nonpublic or confidential alternative programs shall be transmitted
26 through the coordinated licensure information system only to party state
27 licensing boards.

28 e. Notwithstanding any other provision of law, all party state
29 licensing boards contributing information to the coordinated licensure
30 information system may designate information that may not be shared with
31 nonparty states or disclosed to other entities or individuals without the

1 express permission of the contributing state.

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

7 g. Any information contributed to the coordinated licensure
8 information system that is subsequently required to be expunged by the
9 laws of the party state contributing that information shall also be
10 expunged from the coordinated licensure information system.

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

14 1. Identifying information;

15 2. Licensure data;

16 3. Information related to alternative program participation; and

17 4. Other information that may facilitate the administration of this
18 Compact, as determined by rules of the Interstate Commission of Nurse
19 Licensure Compact Administrators.

20 i. The Compact administrator of a party state shall provide all
21 investigative documents and information requested by another party state.

22 ARTICLE VII

23 Establishment of the Interstate Commission of Nurse Licensure
24 Compact Administrators

25 a. The party states hereby create and establish a joint public
26 entity known as the Interstate Commission of Nurse Licensure Compact
27 Administrators.

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

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

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

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

6 b. Membership, Voting and Meetings

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

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

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

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

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

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

30 ii. The employment, compensation, discipline or other personnel
31 matters, practices or procedures related to specific employees or other

1 matters related to the Commission's internal personnel practices and
2 procedures;

3 iii. Current, threatened or reasonably anticipated litigation;

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

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

7 vi. Disclosure of trade secrets or commercial or financial
8 information that is privileged or confidential;

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

11 viii. Disclosure of investigatory records compiled for law
12 enforcement purposes;

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

16 x. Matters specifically exempted from disclosure by federal or state
17 statute.

18 6. If a meeting, or portion of a meeting, is closed pursuant to this
19 provision, the Commission's legal counsel or designee shall certify that
20 the meeting may be closed and shall reference each relevant exempting
21 provision. The Commission shall keep minutes that fully and clearly
22 describe all matters discussed in a meeting and shall provide a full and
23 accurate summary of actions taken, and the reasons therefor, including a
24 description of the views expressed. All documents considered in
25 connection with an action shall be identified in such minutes. All
26 minutes and documents of a closed meeting shall remain under seal,
27 subject to release by a majority vote of the Commission or order of a
28 court of competent jurisdiction.

29 c. The Commission shall, by a majority vote of the administrators,
30 prescribe bylaws or rules to govern its conduct as may be necessary or
31 appropriate to carry out the purposes and exercise the powers of this

1 Compact, including, but not limited to:

2 1. Establishing the fiscal year of the Commission;

3 2. Providing reasonable standards and procedures:

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

5 ii. Governing any general or specific delegation of any authority or
6 function of the Commission;

7 3. Providing reasonable procedures for calling and conducting
8 meetings of the Commission, ensuring reasonable advance notice of all
9 meetings and providing an opportunity for attendance of such meetings by
10 interested parties, with enumerated exceptions designed to protect the
11 public's interest, the privacy of individuals, and proprietary
12 information, including trade secrets. The Commission may meet in closed
13 session only after a majority of the administrators vote to close a
14 meeting in whole or in part. As soon as practicable, the Commission must
15 make public a copy of the vote to close the meeting revealing the vote of
16 each administrator, with no proxy votes allowed;

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

19 5. Providing reasonable standards and procedures for the
20 establishment of the personnel policies and programs of the Commission.
21 Notwithstanding any civil service or other similar laws of any party
22 state, the bylaws shall exclusively govern the personnel policies and
23 programs of the Commission; and

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

28 d. The Commission shall publish its bylaws and rules, and any
29 amendments thereto, in a convenient form on the web site of the
30 Commission.

31 e. The Commission shall maintain its financial records in accordance

1 with the bylaws.

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

4 g. The Commission shall have the following powers:

5 1. To promulgate uniform rules to facilitate and coordinate
6 implementation and administration of this Compact. The rules shall have
7 the force and effect of law and shall be binding in all party states;

8 2. To bring and prosecute legal proceedings or actions in the name
9 of the Commission, provided that the standing of any licensing board to
10 sue or be sued under applicable law shall not be affected;

11 3. To purchase and maintain insurance and bonds;

12 4. To borrow, accept or contract for services of personnel,
13 including, but not limited to, employees of a party state or nonprofit
14 organizations;

15 5. To cooperate with other organizations that administer state
16 compacts related to the regulation of nursing, including, but not limited
17 to, sharing administrative or staff expenses, office space or other
18 resources;

19 6. To hire employees, elect or appoint officers, fix compensation,
20 define duties, grant such individuals appropriate authority to carry out
21 the purposes of this Compact, and to establish the Commission's personnel
22 policies and programs relating to conflicts of interest, qualifications
23 of personnel and other related personnel matters;

24 7. To accept any and all appropriate donations, grants and gifts of
25 money, equipment, supplies, materials and services, and to receive,
26 utilize and dispose of the same; provided that at all times the
27 Commission shall avoid any appearance of impropriety or conflict of
28 interest;

29 8. To lease, purchase, accept appropriate gifts or donations of, or
30 otherwise to own, hold, improve or use, any property, whether real,
31 personal or mixed; provided that at all times the Commission shall avoid

1 any appearance of impropriety;

2 9. To sell, convey, mortgage, pledge, lease, exchange, abandon or
3 otherwise dispose of any property, whether real, personal or mixed;

4 10. To establish a budget and make expenditures;

5 11. To borrow money;

6 12. To appoint committees, including advisory committees comprised
7 of administrators, state nursing regulators, state legislators or their
8 representatives, and consumer representatives, and other such interested
9 persons;

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

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

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

16 h. Financing of the Commission

17 1. The Commission shall pay, or provide for the payment of, the
18 reasonable expenses of its establishment, organization and ongoing
19 activities.

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

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

30 4. The Commission shall keep accurate accounts of all receipts and
31 disbursements. The receipts and disbursements of the Commission shall be

1 subject to the audit and accounting procedures established under its
2 bylaws. However, all receipts and disbursements of funds handled by the
3 Commission shall be audited yearly by a certified or licensed public
4 accountant, and the report of the audit shall be included in and become
5 part of the annual report of the Commission.

6 i. Qualified Immunity, Defense and Indemnification

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

18 2. The Commission shall defend any administrator, officer, executive
19 director, employee or representative of the Commission in any civil
20 action seeking to impose liability arising out of any actual or alleged
21 act, error or omission that occurred within the scope of Commission
22 employment, duties or responsibilities, or that the person against whom
23 the claim is made had a reasonable basis for believing occurred within
24 the scope of Commission employment, duties or responsibilities; provided
25 that nothing herein shall be construed to prohibit that person from
26 retaining his or her own counsel; and provided further that the actual or
27 alleged act, error or omission did not result from that person's
28 intentional, willful or wanton misconduct.

29 3. The Commission shall indemnify and hold harmless any
30 administrator, officer, executive director, employee or representative of
31 the Commission for the amount of any settlement or judgment obtained

1 against that person arising out of any actual or alleged act, error or
2 omission that occurred within the scope of Commission employment, duties
3 or responsibilities, or that such person had a reasonable basis for
4 believing occurred within the scope of Commission employment, duties or
5 responsibilities, provided that the actual or alleged act, error or
6 omission did not result from the intentional, willful or wanton
7 misconduct of that person.

8 ARTICLE VIII

9 Rulemaking

10 a. The Interstate Commission of Nurse Licensure Compact
11 Administrators shall exercise its rulemaking powers pursuant to the
12 criteria set forth in this Article and the rules adopted thereunder.
13 Rules and amendments shall become binding as of the date specified in
14 each rule or amendment and shall have the same force and effect as
15 provisions of this Compact.

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

18 c. Prior to promulgation and adoption of a final rule or rules by
19 the Commission, and at least sixty days in advance of the meeting at
20 which the rule will be considered and voted upon, the Commission shall
21 file a notice of proposed rulemaking:

22 1. On the web site of the Commission; and

23 2. On the web site of each licensing board or the publication in
24 which each state would otherwise publish proposed rules.

25 d. The notice of proposed rulemaking shall include:

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

28 2. The text of the proposed rule or amendment, and the reason for
29 the proposed rule;

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

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

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

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

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

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

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

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

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

23 j. The Commission shall, by majority vote of all administrators,
24 take final action on the proposed rule and shall determine the effective
25 date of the rule, if any, based on the rulemaking record and the full
26 text of the rule.

27 k. Upon determination that an emergency exists, the Commission may
28 consider and adopt an emergency rule without prior notice, opportunity
29 for comment or hearing, provided that the usual rulemaking procedures
30 provided in this Compact and in this section shall be retroactively
31 applied to the rule as soon as reasonably possible, in no event later

1 than ninety days after the effective date of the rule. For the purposes
2 of this provision, an emergency rule is one that must be adopted
3 immediately in order to:

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

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

19 ARTICLE IX

20 Oversight, Dispute Resolution and Enforcement

21 a. Oversight

22 1. Each party state shall enforce this Compact and take all actions
23 necessary and appropriate to effectuate this Compact's purposes and
24 intent.

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

1 b. Default, Technical Assistance and Termination

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

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

8 ii. Provide remedial training and specific technical assistance
9 regarding the default.

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

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

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

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

30 6. The defaulting state may appeal the action of the Commission by
31 petitioning the United States District Court for the District of Columbia

1 or the federal district in which the Commission has its principal
2 offices. The prevailing party shall be awarded all costs of such
3 litigation, including reasonable attorney's fees.

4 c. Dispute Resolution

5 1. Upon request by a party state, the Commission shall attempt to
6 resolve disputes related to the Compact that arise among party states and
7 between party and nonparty states.

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

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

12 i. The party states may submit the issues in dispute to an
13 arbitration panel, which will be comprised of individuals appointed by
14 the Compact administrator in each of the affected party states and an
15 individual mutually agreed upon by the Compact administrators of all the
16 party states involved in the dispute.

17 ii. The decision of a majority of the arbitrators shall be final and
18 binding.

19 d. Enforcement

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

22 2. By majority vote, the Commission may initiate legal action in the
23 United States District Court for the District of Columbia or the federal
24 district in which the Commission has its principal offices against a
25 party state that is in default to enforce compliance with the provisions
26 of this Compact and its promulgated rules and bylaws. The relief sought
27 may include both injunctive relief and damages. In the event judicial
28 enforcement is necessary, the prevailing party shall be awarded all costs
29 of such litigation, including reasonable attorney's fees.

30 3. The remedies herein shall not be the exclusive remedies of the
31 Commission. The Commission may pursue any other remedies available under

1 federal or state law.

2 ARTICLE X

3 Effective Date, Withdrawal and Amendment

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

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

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

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

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

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

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

1 ARTICLE XI

2 Construction and Severability

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

15 Sec. 7. Section 71-1795 and the Nurse Licensure Compact contained
16 in section 71-1795 terminate six months after the earlier of the date of
17 legislative enactment of the Nurse Licensure Compact in section 6 of this
18 act into law by no less than twenty-six states or December 31, 2018. The
19 State of Nebraska shall be deemed to have withdrawn from the Nurse
20 Licensure Compact in section 71-1795 at the time the compact terminates
21 under this section.

22 Sec. 8. Original sections 38-2201, 38-2202, 38-2223, and 38-2225,
23 Reissue Revised Statutes of Nebraska, are repealed.