

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 687

Introduced by Blood, 3; Brewer, 43.

Read first time January 03, 2018

Committee:

1 A BILL FOR AN ACT relating to advanced practice registered nurses; to
2 amend sections 38-131, 38-201, 38-206, 38-2025, 38-3208, and 71-906,
3 Reissue Revised Statutes of Nebraska; to adopt the Advanced Practice
4 Registered Nurse Compact; to require criminal background checks as
5 prescribed; to provide for a compact administrator; to place
6 restrictions on the Board of Advanced Practice Registered Nurses; to
7 authorize practice for purposes of the Medicine and Surgery Practice
8 Act, the Respiratory Care Practice Act, and the Nebraska Mental
9 Health Commitment Act; to harmonize provisions; and to repeal the
10 original sections.

11 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 38-131, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 38-131 (1) An applicant for an initial license to practice as a
4 registered nurse or a licensed practical nurse or to practice a
5 profession which is authorized to prescribe controlled substances shall
6 be subject to a criminal background check. An applicant for a multistate
7 license to practice as an advanced practice registered nurse shall be
8 subject to a criminal background check. Except as provided in subsection
9 (3) of this section, the applicant shall submit with the application a
10 full set of fingerprints which shall be forwarded to the Nebraska State
11 Patrol to be submitted to the Federal Bureau of Investigation for a
12 national criminal history record information check. The applicant shall
13 authorize release of the results of the national criminal history record
14 information check to the department. The applicant shall pay the actual
15 cost of the fingerprinting and criminal background check.

16 (2) This section shall not apply to a dentist who is an applicant
17 for a dental locum tenens under section 38-1122, to a physician or
18 osteopathic physician who is an applicant for a physician locum tenens
19 under section 38-2036, or to a veterinarian who is an applicant for a
20 veterinarian locum tenens under section 38-3335.

21 (3) An applicant for a temporary educational permit as defined in
22 section 38-2019 shall have ninety days from the issuance of the permit to
23 comply with subsection (1) of this section and shall have his or her
24 permit suspended after such ninety-day period if the criminal background
25 check is not complete or revoked if the criminal background check reveals
26 that the applicant was not qualified for the permit.

27 Sec. 2. Section 38-201, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 38-201 Sections 38-201 to 38-212 and section 4 of this act shall be
30 known and may be cited as the Advanced Practice Registered Nurse Practice
31 Act.

1 Sec. 3. Section 38-206, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 38-206 The board shall:

4 (1) Establish standards for integrated practice agreements between
5 collaborating physicians and certified nurse midwives;

6 (2) Monitor the scope of practice by certified nurse midwives,
7 certified registered nurse anesthetists, clinical nurse specialists, and
8 nurse practitioners;

9 (3) Recommend disciplinary action relating to licenses of advanced
10 practice registered nurses, certified nurse midwives, certified
11 registered nurse anesthetists, clinical nurse specialists, and nurse
12 practitioners;

13 (4) Engage in other activities not inconsistent with the Advanced
14 Practice Registered Nurse Compact, the Advanced Practice Registered Nurse
15 Practice Act, the Certified Nurse Midwifery Practice Act, the Certified
16 Registered Nurse Anesthetist Practice Act, the Clinical Nurse Specialist
17 Practice Act, and the Nurse Practitioner Practice Act; and

18 (5) Adopt rules and regulations to implement the Advanced Practice
19 Registered Nurse Practice Act, the Certified Nurse Midwifery Practice
20 Act, the Certified Registered Nurse Anesthetist Practice Act, the
21 Clinical Nurse Specialist Practice Act, and the Nurse Practitioner
22 Practice Act, for promulgation by the department as provided in section
23 38-126. Such rules and regulations shall also include: (a) Approved
24 certification organizations and approved certification programs; and (b)
25 professional liability insurance.

26 Sec. 4. The chairperson of the board or his or her designee shall
27 serve as the administrator of the Advanced Practice Registered Nurse
28 Compact for the State of Nebraska. The administrator shall give notice of
29 withdrawal to the executive heads of all other party states within thirty
30 days after the effective date of any statute repealing the compact
31 enacted by the Legislature pursuant to Article X of the compact.

1 Sec. 5. Section 38-2025, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 38-2025 The following classes of persons shall not be construed to
4 be engaged in the unauthorized practice of medicine:

5 (1) Persons rendering gratuitous services in cases of emergency;

6 (2) Persons administering ordinary household remedies;

7 (3) The members of any church practicing its religious tenets,
8 except that they shall not prescribe or administer drugs or medicines,
9 perform surgical or physical operations, nor assume the title of or hold
10 themselves out to be physicians, and such members shall not be exempt
11 from the quarantine laws of this state;

12 (4) Students of medicine who are studying in an accredited school or
13 college of medicine and who gratuitously prescribe for and treat disease
14 under the supervision of a licensed physician;

15 (5) Physicians who serve in the armed forces of the United States or
16 the United States Public Health Service or who are employed by the United
17 States Department of Veterans Affairs or other federal agencies, if their
18 practice is limited to that service or employment;

19 (6) Physicians who are licensed in good standing to practice
20 medicine under the laws of another state when incidentally called into
21 this state or contacted via electronic or other medium for consultation
22 with a physician licensed in this state. For purposes of this
23 subdivision, consultation means evaluating the medical data of the
24 patient as provided by the treating physician and rendering a
25 recommendation to such treating physician as to the method of treatment
26 or analysis of the data. The interpretation of a radiological image by a
27 physician who specializes in radiology is not a consultation;

28 (7) Physicians who are licensed in good standing to practice
29 medicine in another state but who, from such other state, order
30 diagnostic or therapeutic services on an irregular or occasional basis,
31 to be provided to an individual in this state, if such physicians do not

1 maintain and are not furnished for regular use within this state any
2 office or other place for the rendering of professional services or the
3 receipt of calls;

4 (8) Physicians who are licensed in good standing to practice
5 medicine in another state and who, on an irregular and occasional basis,
6 are granted temporary hospital privileges to practice medicine and
7 surgery at a hospital or other medical facility licensed in this state;

8 (9) Persons providing or instructing as to use of braces, prosthetic
9 appliances, crutches, contact lenses, and other lenses and devices
10 prescribed by a physician licensed to practice medicine while working
11 under the direction of such physician;

12 (10) Dentists practicing their profession when licensed and
13 practicing in accordance with the Dentistry Practice Act;

14 (11) Optometrists practicing their profession when licensed and
15 practicing under and in accordance with the Optometry Practice Act;

16 (12) Osteopathic physicians practicing their profession if licensed
17 and practicing under and in accordance with sections 38-2029 to 38-2033;

18 (13) Chiropractors practicing their profession if licensed and
19 practicing under the Chiropractic Practice Act;

20 (14) Podiatrists practicing their profession when licensed and
21 practicing under and in accordance with the Podiatry Practice Act;

22 (15) Psychologists practicing their profession when licensed and
23 practicing under and in accordance with the Psychology Practice Act;

24 (16) Advanced practice registered nurses practicing in their
25 clinical specialty areas when licensed under the Advanced Practice
26 Registered Nurse Compact or the Advanced Practice Registered Nurse
27 Practice Act and practicing under and in accordance with their respective
28 practice acts;

29 (17) Surgical first assistants practicing in accordance with the
30 Surgical First Assistant Practice Act;

31 (18) Persons licensed or certified under the laws of this state to

1 practice a limited field of the healing art, not specifically named in
2 this section, when confining themselves strictly to the field for which
3 they are licensed or certified, not assuming the title of physician,
4 surgeon, or physician and surgeon, and not professing or holding
5 themselves out as qualified to prescribe drugs in any form or to perform
6 operative surgery;

7 (19) Persons obtaining blood specimens while working under an order
8 of or protocols and procedures approved by a physician, registered nurse,
9 or other independent health care practitioner licensed to practice by the
10 state if the scope of practice of that practitioner permits the
11 practitioner to obtain blood specimens; and

12 (20) Other trained persons employed by a licensed health care
13 facility or health care service defined in the Health Care Facility
14 Licensure Act or clinical laboratory certified pursuant to the federal
15 Clinical Laboratories Improvement Act of 1967, as amended, or Title XVIII
16 or XIX of the federal Social Security Act to withdraw human blood for
17 scientific or medical purposes.

18 Any person who has held or applied for a license to practice
19 medicine and surgery in this state, and such license or application has
20 been denied or such license has been refused renewal or disciplined by
21 order of limitation, suspension, or revocation, shall be ineligible for
22 the exceptions described in subdivisions (5) through (8) of this section
23 until such license or application is granted or such license is renewed
24 or reinstated. Every act or practice falling within the practice of
25 medicine and surgery as defined in section 38-2024 and not specially
26 excepted in this section shall constitute the practice of medicine and
27 surgery and may be performed in this state only by those licensed by law
28 to practice medicine in Nebraska.

29 Sec. 6. Section 38-3208, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 38-3208 The Respiratory Care Practice Act shall not prohibit:

1 (1) The practice of respiratory care which is an integral part of
2 the program of study by students enrolled in approved respiratory care
3 education programs;

4 (2) The gratuitous care, including the practice of respiratory care,
5 of the ill by a friend or member of the family or by a person who is not
6 licensed to practice respiratory care if such person does not represent
7 himself or herself as a respiratory care practitioner;

8 (3) The practice of respiratory care by nurses, physicians,
9 physician assistants, physical therapists, or any other professional
10 required to be licensed under the Uniform Credentialing Act when such
11 practice is within the scope of practice for which that person is
12 licensed to practice in this state;

13 (4) The practice of any respiratory care practitioner of this state
14 or any other state or territory while employed by the federal government
15 or any bureau or division thereof while in the discharge of his or her
16 official duties;

17 (5) Techniques defined as pulmonary function testing and the
18 administration of aerosol and inhalant medications to the
19 cardiorespiratory system as it relates to pulmonary function technology
20 administered by a registered pulmonary function technologist credentialed
21 by the National Board for Respiratory Care or a certified pulmonary
22 function technologist credentialed by the National Board for Respiratory
23 Care; or

24 (6) The performance of oxygen therapy or the initiation of
25 noninvasive positive pressure ventilation by a registered
26 polysomnographic technologist relating to the study of sleep disorders if
27 such procedures are performed or initiated under the supervision of a
28 licensed physician at a facility accredited by the American Academy of
29 Sleep Medicine.

30 Sec. 7. Section 71-906, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 71-906 Mental health professional means a person licensed to
2 practice medicine and surgery or psychology in this state under the
3 Uniform Credentialing Act or an advanced practice registered nurse
4 licensed under the Advanced Practice Registered Nurse Compact or the
5 Advanced Practice Registered Nurse Practice Act who has proof of current
6 certification in a psychiatric or mental health specialty.

7 Sec. 8. The State of Nebraska adopts the Advanced Practice
8 Registered Nurse Compact in the form substantially as follows:

9 ARTICLE I

10 Findings and Declaration of Purpose

11 a. The party states find that:

12 1. The health and safety of the public are affected by the degree of
13 compliance with APRN licensure requirements and the effectiveness of
14 enforcement activities related to state APRN licensure laws;

15 2. Violations of APRN licensure and other laws regulating the
16 practice of nursing may result in injury or harm to the public;

17 3. The expanded mobility of APRNs and the use of advanced
18 communication technologies as part of our nation's health care delivery
19 system require greater coordination and cooperation among states in the
20 areas of APRN licensure and regulation;

21 4. New practice modalities and technology make compliance with
22 individual state APRN licensure laws difficult and complex;

23 5. The current system of duplicative APRN licensure for APRNs
24 practicing in multiple states is cumbersome and redundant for both APRNs
25 and states; and

26 6. Uniformity of APRN licensure requirements throughout the states
27 promotes public safety and public health benefits.

28 b. The general purposes of the Advanced Practice Registered Nurse
29 Compact are to:

30 1. Facilitate the states' responsibility to protect the public's
31 health and safety;

1 2. Ensure and encourage the cooperation of party states in the areas
2 of APRN licensure and regulation, including promotion of uniform
3 licensure requirements;

4 3. Facilitate the exchange of information between party states in
5 the areas of APRN regulation, investigation, and adverse actions;

6 4. Promote compliance with the laws governing APRN practice in each
7 jurisdiction;

8 5. Invest all party states with the authority to hold an APRN
9 accountable for meeting all state practice laws in the state in which the
10 patient is located at the time care is rendered through the mutual
11 recognition of party state licenses;

12 6. Decrease redundancies in the consideration and issuance of APRN
13 licenses; and

14 7. Provide opportunities for interstate practice by APRNs who meet
15 uniform licensure requirements.

16 ARTICLE II

17 Definitions

18 As used in the Advanced Practice Registered Nurse Compact:

19 a. Advanced practice registered nurse or APRN means a registered
20 nurse who has gained additional specialized knowledge, skills, and
21 experience through a program of study recognized or defined by the
22 Interstate Commission of APRN Compact Administrators and who is licensed
23 to perform advanced nursing practice. An advanced practice registered
24 nurse is licensed in an APRN role that is congruent with an APRN
25 educational program, certification, and Commission rules.

26 b. Adverse action means any administrative, civil, equitable, or
27 criminal action permitted by a state's laws which is imposed by a
28 licensing board or other authority against an APRN, including actions
29 against an individual's license or multistate licensure privilege such as
30 revocation, suspension, probation, monitoring of the licensee, limitation
31 on the licensee's practice, or any other encumbrance on licensure

1 affecting an APRN's authorization to practice, including the issuance of
2 a cease and desist action.

3 c. Alternative program means a nondisciplinary monitoring program
4 approved by a licensing board.

5 d. APRN licensure means the regulatory mechanism used by a party
6 state to grant legal authority to practice as an APRN.

7 e. APRN uniform licensure requirements means minimum uniform
8 licensure, education, and examination requirements as adopted by the
9 Commission.

10 f. Commission means the Interstate Commission of APRN Compact
11 Administrators.

12 g. Coordinated licensure information system means an integrated
13 process for collecting, storing, and sharing information on APRN
14 licensure and enforcement activities related to APRN licensure laws that
15 is administered by a nonprofit organization composed of and controlled by
16 licensing boards.

17 h. Current significant investigative information means:

18 1. Investigative information that a licensing board, after a
19 preliminary inquiry that includes notification and an opportunity for the
20 APRN to respond, if required by state law, has reason to believe is not
21 groundless and, if proved true, would indicate more than a minor
22 infraction; or

23 2. Investigative information that indicates that the APRN represents
24 an immediate threat to public health and safety regardless of whether the
25 APRN has been notified and had an opportunity to respond.

26 i. Encumbrance means a revocation or suspension of, or any
27 limitation on, the full and unrestricted practice of nursing imposed by a
28 licensing board.

29 j. Home state means the party state that is the APRN's primary state
30 of residence.

31 k. Licensing board means a party state's regulatory body responsible

1 for regulating the practice of advanced practice registered nursing.

2 l. Multistate license means an APRN license to practice as an APRN
3 issued by a home state licensing board that authorizes the APRN to
4 practice as an APRN in all party states under a multistate licensure
5 privilege, in the same scope of practice as the APRN is licensed in the
6 home state.

7 m. Multistate licensure privilege means a legal authorization
8 associated with an APRN multistate license that permits an APRN to
9 practice as an APRN in a remote state, in the same role and population
10 focus as the APRN is licensed in the home state.

11 n. Noncontrolled prescription drug means a device or drug that is
12 not a controlled substance and is prohibited under state or federal law
13 from being dispensed without a prescription. The term includes a device
14 or drug that bears or is required to bear the legend "Caution: federal
15 law prohibits dispensing without prescription" or "prescription only" or
16 other legend that complies with federal law.

17 o. Party state means any state that has adopted this Compact.

18 p. Population focus means a specific patient population that is
19 congruent with the APRN educational program, certification, and
20 Commission rules.

21 q. Prescriptive authority means the legal authority to prescribe
22 medications and devices as defined by party state laws.

23 r. Remote state means a party state that is not the home state.

24 s. Single-state license means an APRN license issued by a party
25 state that authorizes practice only within the issuing state and does not
26 include a multistate licensure privilege to practice in any other party
27 state.

28 t. State means a state, territory, or possession of the United
29 States and the District of Columbia.

30 u. State practice laws means a party state's laws, rules, and
31 regulations that govern APRN practice, define the scope of advanced

1 nursing practice, including prescriptive authority, and create the
2 methods and grounds for imposing discipline. State practice laws do not
3 include the requirements necessary to obtain and retain an APRN license,
4 except for qualifications or requirements of the home state.

5 v. Uniform licensure requirements or ULR means APRN uniform
6 licensure requirements adopted by the Commission.

7 ARTICLE III

8 General Provisions and Jurisdiction

9 a. A state must implement procedures for considering the criminal
10 history records of applicants for initial APRN licensure or APRN
11 licensure by endorsement. Such procedures shall include the submission of
12 fingerprints or other biometric-based information by APRN applicants for
13 the purpose of obtaining an applicant's criminal history record
14 information from the Federal Bureau of Investigation and the agency
15 responsible for retaining that state's criminal records.

16 b. By rule, the Commission shall adopt the APRN Uniform Licensure
17 Requirements. The ULRs shall provide the minimum requirements for APRN
18 multistate licensure in party states, provided that the Commission may
19 adopt rules whereby an APRN, with an unencumbered license on the
20 effective date of the Advanced Practice Registered Nurse Compact, may
21 obtain, by endorsement or otherwise, and retain a multistate license in a
22 party state.

23 c. In order to obtain or retain a multistate license, an APRN must
24 meet, in addition to the ULRs, the home state's qualifications for
25 licensure or renewal of licensure, as well as all other applicable home
26 state laws.

27 d. By rule, the Commission shall identify the approved APRN roles
28 and population foci for licensure as an APRN. An APRN issued a multistate
29 license shall be licensed in an approved APRN role and at least one
30 approved population focus.

31 e. An APRN multistate license issued by a home state to a resident

1 in that state will be recognized by each party state as authorizing the
2 APRN to practice as an APRN in each party state, under a multistate
3 licensure privilege, in the same role and population focus as the APRN is
4 licensed in the home state. If an applicant does not qualify for a
5 multistate license, a single-state license may be issued by a home state.

6 f. Issuance of an APRN multistate license shall include prescriptive
7 authority for noncontrolled prescription drugs, unless the APRN was
8 licensed by the home state prior to the home state's adoption of this
9 Compact and has not previously held prescriptive authority.

10 1. An APRN granted prescriptive authority for noncontrolled
11 prescription drugs in the home state may exercise prescriptive authority
12 for noncontrolled prescription drugs in any remote state while exercising
13 a multistate licensure privilege under an APRN multistate license. The
14 APRN shall not be required to meet any additional eligibility
15 requirements imposed by the remote state in exercising prescriptive
16 authority for noncontrolled prescription drugs.

17 2. Prescriptive authority in the home state for an APRN who was not
18 granted prescriptive authority at the time of initial licensure by the
19 home state, prior to the adoption of this Compact, shall be determined
20 under home state law.

21 3. Prescriptive authority eligibility for an APRN holding a single-
22 state license shall be determined under the law of the licensing state.

23 g. For each state in which an APRN seeks authority to prescribe
24 controlled substances, the APRN shall satisfy all requirements imposed by
25 such state in granting and renewing such authority.

26 h. An APRN issued a multistate license is authorized to assume
27 responsibility and accountability for patient care independent of a
28 supervisory or collaborative relationship with a physician. This
29 authority may be exercised in the home state and in any remote state in
30 which the APRN exercises a multistate licensure privilege. For an APRN
31 issued a single-state license in a party state, the requirement for a

1 supervisory or collaborative relationship with a physician shall be
2 determined under applicable party state law.

3 i. All party states shall be authorized, in accordance with state
4 due process laws, to take adverse action against an APRN's multistate
5 licensure privilege, such as revocation, suspension, or probation, or any
6 other action that affects an APRN's authorization to practice under a
7 multistate licensure privilege, including cease and desist actions. If a
8 party state takes such action, it shall promptly notify the administrator
9 of the coordinated licensure information system. The administrator of the
10 coordinated licensure information system shall promptly notify the home
11 state of any such actions by remote states.

12 j. An APRN practicing in a party state must comply with the state
13 practice laws of the state in which the client is located at the time
14 service is provided. APRN practice is not limited to patient care, but
15 shall include all advanced nursing practice as defined by the state
16 practice laws of the party state in which the client is located. APRN
17 practice in a party state under a multistate licensure privilege will
18 subject the APRN to the jurisdiction of the licensing board, the courts,
19 and the laws of the party state in which the client is located at the
20 time service is provided.

21 k. This Compact does not affect additional requirements imposed by
22 states for advanced practice registered nursing. However, a multistate
23 licensure privilege to practice registered nursing granted by a party
24 state shall be recognized by other party states as satisfying any state
25 law requirement for registered nurse licensure as a precondition for
26 authorization to practice as an APRN in that state.

27 l. Individuals not residing in a party state shall continue to be
28 able to apply for a party state's single-state APRN license as provided
29 under the laws of each party state. However, the single-state license
30 granted to these individuals will not be recognized as granting the
31 privilege to practice as an APRN in any other party state.

1 ARTICLE IV

2 Applications for APRN Licensure in a Party State

3 a. Upon application for an APRN multistate license, the licensing
4 board in the issuing party state shall ascertain, through the coordinated
5 licensure information system, whether the applicant has ever held or is
6 the holder of a licensed practical/vocational nursing license, a
7 registered nursing license, or an advanced practice registered nurse
8 license issued by any other state, whether there are any encumbrances on
9 any license or multistate licensure privilege held by the applicant,
10 whether any adverse action has been taken against any license or
11 multistate licensure privilege held by the applicant, and whether the
12 applicant is currently participating in an alternative program.

13 b. An APRN may hold a multistate APRN license, issued by the home
14 state, in only one party state at a time.

15 c. If an APRN changes primary state of residence by moving between
16 two party states, the APRN must apply for APRN licensure in the new home
17 state, and the multistate license issued by the prior home state shall be
18 deactivated in accordance with applicable Commission rules.

19 1. The APRN may apply for licensure in advance of a change in
20 primary state of residence.

21 2. A multistate APRN license shall not be issued by the new home
22 state until the APRN provides satisfactory evidence of a change in
23 primary state of residence to the new home state and satisfies all
24 applicable requirements to obtain a multistate APRN license from the new
25 home state.

26 d. If an APRN changes primary state of residence by moving from a
27 party state to a nonparty state, the APRN multistate license issued by
28 the prior home state will convert to a single-state license, valid only
29 in the former home state.

30 ARTICLE V

31 Additional Authorities Invested in Party State Licensing Boards

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

3 1. Take adverse action against an APRN's multistate licensure
4 privilege to practice within that party state.

5 i. Only the home state shall have power to take adverse action
6 against an APRN's license issued by the home state.

7 ii. For purposes of taking adverse action, the home state licensing
8 board shall give the same priority and effect to reported conduct that
9 occurred outside of the home state as it would if such conduct had
10 occurred within the home state. In so doing, the home state shall apply
11 its own state laws to determine appropriate action.

12 2. Issue cease and desist orders or impose an encumbrance on an
13 APRN's authority to practice within that party state.

14 3. Complete any pending investigations of an APRN who changes
15 primary state of residence during the course of such investigations. The
16 licensing board shall also have the authority to take appropriate action
17 and shall promptly report the conclusions of such investigations to the
18 administrator of the coordinated licensure information system. The
19 administrator of the coordinated licensure information system shall
20 promptly notify the new home state of any such action.

21 4. Issue subpoenas for both hearings and investigations that require
22 the attendance and testimony of witnesses, as well as the production of
23 evidence. Subpoenas issued by a party state licensing board for the
24 attendance and testimony of witnesses and the production of evidence from
25 another party state shall be enforced in the latter state by any court of
26 competent jurisdiction, according to that court's practice and procedure
27 in considering subpoenas issued in its own proceedings. The issuing
28 licensing board shall pay any witness fees, travel expenses, mileage, and
29 other fees required by the service statutes of the state in which the
30 witnesses and evidence are located.

31 5. Obtain and submit, for an APRN licensure applicant, fingerprints

1 or other biometric-based information to the Federal Bureau of
2 Investigation for criminal background checks, receive the results of the
3 Federal Bureau of Investigation record search on criminal background
4 checks, and use the results in making licensure decisions.

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

8 7. Take adverse action based on the factual findings of another
9 party state, provided that the licensing board follows its own procedures
10 for taking such adverse action.

11 b. If adverse action is taken by a home state against an APRN's
12 multistate licensure, the privilege to practice in all other party states
13 under a multistate licensure privilege shall be deactivated until all
14 encumbrances have been removed from the APRN's multistate license. All
15 home state disciplinary orders that impose adverse action against an
16 APRN's multistate license shall include a statement that the APRN's
17 multistate licensure privilege is deactivated in all party states during
18 the pendency of the order.

19 c. Nothing in the Advanced Practice Registered Nurse Compact shall
20 override a party state's decision that participation in an alternative
21 program may be used in lieu of adverse action. The home state licensing
22 board shall deactivate the multistate licensure privilege under the
23 multistate license of any APRN for the duration of the APRN's
24 participation in an alternative program.

25 ARTICLE VI

26 Coordinated Licensure Information System and Exchange of Information

27 a. All party states shall participate in a coordinated licensure
28 information system of all APRNs, licensed registered nurses, and licensed
29 practical/vocational nurses. This system will include information on the
30 licensure and disciplinary history of each APRN, as submitted by party
31 states, to assist in the coordinated administration of APRN licensure and

1 enforcement efforts.

2 b. The Commission, in consultation with the administrator of the
3 coordinated licensure information system, shall formulate necessary and
4 proper procedures for the identification, collection, and exchange of
5 information under the Advanced Practice Registered Nurse Compact.

6 c. All licensing boards shall promptly report to the coordinated
7 licensure information system any adverse action, any current significant
8 investigative information, denials of applications with the reasons for
9 such denials, and APRN participation in alternative programs known to the
10 licensing board regardless of whether such participation is deemed
11 nonpublic or confidential under state law.

12 d. Current significant investigative information and participation
13 in nonpublic or confidential alternative programs shall be transmitted
14 through the coordinated licensure information system only to party state
15 licensing boards.

16 e. All party state licensing boards contributing information to the
17 coordinated licensure information system may designate information that
18 may not be shared with nonparty states or disclosed to other entities or
19 individuals without the express permission of the contributing state.

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

25 g. Any information contributed to the coordinated licensure
26 information system that is subsequently required to be expunged by the
27 laws of the party state contributing the information shall be removed
28 from the coordinated licensure information system.

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

- 1 1. Identifying information;
- 2 2. Licensure data;
- 3 3. Information related to alternative program participation
- 4 information; and
- 5 4. Other information that may facilitate the administration of this
- 6 Compact, as determined by Commission rules.

7 i. The Compact administrator of a party state shall provide all

8 investigative documents and information requested by another party state.

9 ARTICLE VII

10 Establishment of the Interstate Commission of APRN Compact

11 Administrators

12 a. The party states hereby create and establish a joint public

13 agency known as the Interstate Commission of APRN Compact Administrators.

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

15 2. Venue is proper, and judicial proceedings by or against the

16 Commission shall be brought solely and exclusively, in a court of

17 competent jurisdiction where the principal office of the Commission is

18 located. The Commission may waive venue and jurisdictional defenses to

19 the extent it adopts or consents to participate in alternative dispute

20 resolution proceedings.

21 3. Nothing in the Advanced Practice Registered Nurse Compact shall

22 be construed to be a waiver of sovereign immunity.

23 b. Membership, Voting, and Meetings

24 1. Each party state shall have and be limited to one administrator.

25 The head of the state licensing board or designee shall be the

26 administrator of this Compact for each party state. Any administrator may

27 be removed or suspended from office as provided by the law of the state

28 from which the administrator is appointed. Any vacancy occurring in the

29 Commission shall be filled in accordance with the laws of the party state

30 in which the vacancy exists.

31 2. Each administrator shall be entitled to one vote with regard to

1 the promulgation of rules and creation of bylaws and shall otherwise have
2 an opportunity to participate in the business and affairs of the
3 Commission. An administrator shall vote in person or by such other means
4 as provided in the bylaws. The bylaws may provide for an administrator's
5 participation in meetings by telephone or other means of communication.

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

9 4. All meetings shall be open to the public, and public notice of
10 meetings shall be given in the same manner as required under the
11 rulemaking provisions in Article VIII of this Compact.

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

14 i. Noncompliance of a party state with its obligations under this
15 Compact;

16 ii. The employment, compensation, discipline, or other personnel
17 matters, practices, or procedures related to specific employees or other
18 matters related to the Commission's internal personnel practices and
19 procedures;

20 iii. Current, threatened, or reasonably anticipated litigation;

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

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

24 vi. Disclosure of trade secrets or commercial or financial
25 information that is privileged or confidential;

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

28 viii. Disclosure of investigative records compiled for law
29 enforcement purposes;

30 ix. Disclosure of information related to any reports prepared by or
31 on behalf of the Commission for the purpose of investigation of

1 compliance with this Compact; or

2 x. Matters specifically exempted from disclosure by federal or state
3 statute.

4 6. If a meeting, or portion of a meeting, is closed pursuant to this
5 Article, the Commission's legal counsel or designee shall certify that
6 the meeting may be closed and shall reference each relevant exempting
7 provision in this Article. The Commission shall keep minutes that fully
8 and clearly describe all matters discussed in a meeting and shall provide
9 a full and accurate summary of actions taken, and the reasons therefor,
10 including a description of the views expressed. All documents considered
11 in connection with an action shall be identified in such minutes. All
12 minutes and documents of a closed meeting shall remain under seal,
13 subject to release by a majority vote of the Commission or order of a
14 court of competent jurisdiction.

15 c. The Commission shall, by a majority vote of the administrators,
16 prescribe bylaws or rules to govern its conduct as may be necessary or
17 appropriate to carry out the purposes and exercise the powers of this
18 Compact, including, but not limited to:

19 1. Establishing the fiscal year of the Commission;

20 2. Providing reasonable standards and procedures:

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

22 ii. Governing any general or specific delegation of any authority or
23 function of the Commission.

24 3. Providing reasonable procedures for calling and conducting
25 meetings of the Commission, ensuring reasonable advance notice of all
26 meetings, and providing an opportunity for attendance of such meetings by
27 interested parties, with enumerated exceptions designed to protect the
28 public's interest, the privacy of individuals, and proprietary
29 information, including trade secrets. The Commission may meet in closed
30 session only after a majority of the administrators vote to close a
31 meeting in whole or in part. As soon as practicable, the Commission must

1 make public a copy of the vote to close the meeting revealing the vote of
2 each administrator, with no proxy votes allowed;

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

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

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

14 d. The Commission shall publish its bylaws and rules, and any
15 amendments thereto, in a convenient form on the web site of the
16 Commission;

17 e. The Commission shall maintain its financial records in accordance
18 with the bylaws; and

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

21 g. The Commission shall have the following powers:

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

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

28 3. To purchase and maintain insurance and bonds;

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

1 5. To cooperate with other organizations that administer state
2 compacts related to the regulation of nursing, including, but not limited
3 to, sharing administrative or staff expenses, office space, or other
4 resources;

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

10 7. To accept any and all appropriate donations, grants, and gifts of
11 money, equipment, supplies, materials, and services, and to receive,
12 utilize, and dispose of the same; provided that at all times the
13 Commission shall strive to avoid any appearance of impropriety or
14 conflict of interest;

15 8. To lease, purchase, accept appropriate gifts or donations of, or
16 otherwise to own, hold, improve, or use, any property, whether real,
17 personal, or mixed; provided that at all times the Commission shall
18 strive to avoid any appearance of impropriety;

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

21 10. To establish a budget and make expenditures;

22 11. To borrow money;

23 12. To appoint committees, including advisory committees comprised
24 of administrators, state nursing regulators, state legislators or their
25 representatives, and consumer representatives, and other such interested
26 persons;

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

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

30 15. To perform such other functions as may be necessary or
31 appropriate to achieve the purposes of this Compact consistent with the

1 state regulation of APRN licensure and practice.

2 h. Financing of the Commission

3 1. The Commission shall pay, or provide for the payment of, the
4 reasonable expenses of its establishment, organization, and ongoing
5 activities.

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

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

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

24 i. Qualified Immunity, Defense, and Indemnification

25 1. The administrators, officers, executive director, employees, and
26 representatives of the Commission shall have no greater liability, either
27 personally or in their official capacity, for any claim for damage to or
28 loss of property or personal injury or other civil liability caused by or
29 arising out of any actual or alleged act, error, or omission that
30 occurred, or that the person against whom the claim is made had a
31 reasonable basis for believing occurred, within the scope of Commission

1 employment, duties, or responsibilities, than a state employee would have
2 under the same or similar circumstances; provided that nothing in this
3 paragraph shall be construed to protect any such person from suit or
4 liability for any damage, loss, injury, or liability caused by the
5 intentional, willful, or wanton misconduct of that person.

6 2. The Commission shall defend any administrator, officer, executive
7 director, employee, or representative of the Commission in any civil
8 action seeking to impose liability arising out of any actual or alleged
9 act, error, or omission that occurred within the scope of Commission
10 employment, duties, or responsibilities, or that the person against whom
11 the claim is made had a reasonable basis for believing occurred within
12 the scope of Commission employment, duties, or responsibilities; provided
13 that nothing in this Compact shall be construed to prohibit that person
14 from retaining his or her own counsel; and provided further that the
15 actual or alleged act, error, or omission did not result from that
16 person's intentional, willful, or wanton misconduct.

17 3. The Commission shall indemnify and hold harmless any
18 administrator, officer, executive director, employee, or representative
19 of the Commission for the amount of any settlement or judgment obtained
20 against that person arising out of any actual or alleged act, error, or
21 omission that occurred within the scope of Commission employment, duties,
22 or responsibilities, or that such person had a reasonable basis for
23 believing occurred within the scope of Commission employment, duties, or
24 responsibilities, provided that the actual or alleged act, error, or
25 omission did not result from the intentional, willful, or wanton
26 misconduct of that person.

27 ARTICLE VIII

28 Rulemaking

29 a. The Commission shall exercise its rulemaking powers pursuant to
30 the criteria set forth in this Article and the rules adopted thereunder.
31 Rules and amendments shall become binding as of the date specified in

1 each rule or amendment and shall have the same force and effect as
2 provisions of the Advanced Practice Registered Nurse Compact.

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

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

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

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

12 d. The notice of proposed rulemaking shall include:

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

15 2. The text of the proposed rule or amendment, and the reason for
16 the proposed rule;

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

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

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

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

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

29 1. Hearings shall be conducted in a manner providing each person who
30 wishes to comment a fair and reasonable opportunity to comment orally or
31 in writing. All hearings will be recorded, and a copy will be made

1 available upon request.

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

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

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

10 j. The Commission shall, by majority vote of all administrators,
11 take final action on the proposed rule and shall determine the effective
12 date of the rule, if any, based on the rulemaking record and the full
13 text of the rule.

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

22 1. Meet an imminent threat to public health, safety, or welfare;

23 2. Prevent a loss of Commission or party state funds; or

24 3. Meet a deadline for the promulgation of an administrative rule
25 that is established by federal law or rule.

26 1. The Commission may direct revisions to a previously adopted rule
27 or amendment for purposes of correcting typographical errors, errors in
28 format, errors in consistency, or grammatical errors. Public notice of
29 any revisions shall be posted on the web site of the Commission. The
30 revision shall be subject to challenge by any person for a period of
31 thirty days after posting. The revision may be challenged only on grounds

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

6 ARTICLE IX

7 Oversight, Dispute Resolution, and Enforcement

8 a. Oversight

9 1. Each party state shall enforce the Advanced Practice Registered
10 Nurse Compact and take all actions necessary and appropriate to
11 effectuate this Compact's purposes and intent.

12 2. The Commission shall be entitled to receive service of process in
13 any proceeding that may affect the powers, responsibilities, or actions
14 of the Commission and shall have standing to intervene in such a
15 proceeding for all purposes. Failure to provide service of process to the
16 Commission shall render a judgment or order void as to the Commission,
17 this Compact, or promulgated rules.

18 b. Default, Technical Assistance, and Termination

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

22 i. Provide written notice to the defaulting state and other party
23 states of the nature of the default, the proposed means of curing the
24 default, and any other action to be taken by the Commission; and

25 ii. Provide remedial training and specific technical assistance
26 regarding the default.

27 2. If a state in default fails to cure the default, the defaulting
28 state's membership in this Compact may be terminated upon an affirmative
29 vote of a majority of the administrators, and all rights, privileges, and
30 benefits conferred by this Compact may be terminated on the effective
31 date of termination. A cure of the default does not relieve the offending

1 state of obligations or liabilities incurred during the period of
2 default.

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

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

13 5. The Commission shall not bear any costs related to a state that
14 is found to be in default or whose membership in this Compact has been
15 terminated, unless agreed upon in writing between the Commission and the
16 defaulting state.

17 6. The defaulting state may appeal the action of the Commission by
18 petitioning the United States District Court for the District of Columbia
19 or the federal district in which the Commission has its principal
20 offices. The prevailing party shall be awarded all costs of such
21 litigation, including reasonable attorney's fees.

22 c. Dispute Resolution

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

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

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

30 i. The party states may submit the issues in dispute to an
31 arbitration panel, which will be comprised of individuals appointed by

1 the Compact administrator in each of the affected party states and an
2 individual mutually agreed upon by the Compact administrators of all the
3 party states involved in the dispute.

4 ii. The decision of a majority of the arbitrators shall be final and
5 binding.

6 d. Enforcement

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

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

17 3. The remedies in this Compact shall not be the exclusive remedies
18 of the Commission. The Commission may pursue any other remedies available
19 under federal or state law.

20 ARTICLE X

21 Effective Date, Withdrawal, and Amendment

22 a. The Advanced Practice Registered Nurse Compact shall come into
23 limited effect at such time as this Compact has been enacted into law in
24 ten party states for the sole purpose of establishing and convening the
25 Commission to adopt rules relating to its operation and the APRN ULRs.

26 b. On the date of the Commission's adoption of the APRN ULRs, all
27 remaining provisions of this Compact, and rules adopted by the
28 Commission, shall come into full force and effect in all party states.

29 c. Any state that joins this Compact subsequent to the Commission's
30 initial adoption of the APRN uniform licensure requirements shall be
31 subject to all rules that have been previously adopted by the Commission.

1 d. Any party state may withdraw from this Compact by enacting a
2 statute repealing the same. A party state's withdrawal shall not take
3 effect until six months after enactment of the repealing statute.

4 e. A party state's withdrawal or termination shall not affect the
5 continuing requirement of the withdrawing or terminated state's licensing
6 board to report adverse actions and significant investigations occurring
7 prior to the effective date of such withdrawal or termination.

8 f. Nothing contained in this Compact shall be construed to
9 invalidate or prevent any APRN licensure agreement or other cooperative
10 arrangement between a party state and a nonparty state that does not
11 conflict with the provisions of this Compact.

12 g. This Compact may be amended by the party states. No amendment to
13 this Compact shall become effective and binding upon any party state
14 until it is enacted into the laws of all party states.

15 h. Representatives of nonparty states to this Compact shall be
16 invited to participate in the activities of the Commission, on a
17 nonvoting basis, prior to the adoption of this Compact by all states.

18 ARTICLE XI

19 Construction and Severability

20 The Advanced Practice Registered Nurse Compact shall be liberally
21 construed so as to effectuate the purposes of this Compact. The
22 provisions of this Compact shall be severable, and if any phrase, clause,
23 sentence, or provision of this Compact is declared to be contrary to the
24 constitution of any party state or of the United States, or if the
25 applicability thereof to any government, agency, person, or circumstance
26 is held invalid, the validity of the remainder of this Compact and the
27 applicability thereof to any government, agency, person, or circumstance
28 shall not be affected thereby. If this Compact shall be held to be
29 contrary to the constitution of any party state, this Compact shall
30 remain in full force and effect as to the remaining party states and in
31 full force and effect as to the party state affected as to all severable

1 matters.

2 Sec. 9. Original sections 38-131, 38-201, 38-206, 38-2025, 38-3208,
3 and 71-906, Reissue Revised Statutes of Nebraska, are repealed.