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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO BUSINESSES AND PROFESSIONS -- NURSE LICENSURE COMPACT

Introduced By: Representatives Gallison, Kennedy, Maldonado, Bennett, and Fogarty

Date Introduced: April 14, 2016

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 5-34.3-3, 5-34.3-4, 5-34.3-5, 5-34.3-8 and 5-34.3-9 of the General
2 Laws in Chapter 5-34.3 entitled "Nurse Licensure Compact" are hereby amended to read as
3 follows:

4 **5-34.3-3. Legislative findings.** -- (a) The general assembly finds and declares that:

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

7 (2) Violations of nurse licensure and other laws regulating the practice of nursing may
8 result in injury or harm to the public;

9 (3) The expanded mobility of nurses and the use of advanced communication
10 technologies as part of our nation's healthcare delivery system require greater coordination and
11 cooperation among states in the areas of nurse licensure and regulations;

12 (4) New practice modalities and technology make compliance with individual state nurse
13 licensure laws difficult and complex; and

14 (5) The current system of duplicative licensure for nurses practicing in multiple states is
15 cumbersome and redundant to both nurses and states.

16 (6) Uniformity of nurse licensure requirements throughout the states promotes public
17 safety and public health benefits.

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

19 (1) Facilitate the states' responsibility to protect the public's health and safety;

1 (2) Ensure and encourage the cooperation of party states in the areas of nurse licensure
2 and regulation;

3 (3) Facilitate the exchange of information between party states in the areas of nurse
4 regulation, investigation and adverse actions;

5 (4) Promote compliance with the laws governing the practice of nursing in each
6 jurisdiction; ~~and~~

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

10 (6) Decrease redundancies in the consideration and issuance of nurse licenses; and

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

13 **5-34.3-4. Definitions.** -- As used in this chapter:

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

20 (2) "Alternative program" means a voluntary, non-disciplinary monitoring program
21 approved by a nurse licensing board.

22 (3) "Coordinated licensure information system" means an integrated process for
23 collecting, storing, and sharing information on nurse licensure and enforcement activities related
24 to nurse licensure laws, which is administered by a non-profit organization composed of and
25 controlled by state nurse licensing boards.

26 (4) "Current significant investigative information" means investigative information that a
27 licensing board, after a preliminary inquiry that includes notification and an opportunity for the
28 nurse to respond if required by state law, has reason to believe is not groundless and, if proved
29 true, would indicate more than a minor infraction; or investigative information that indicates that
30 the nurse represents an immediate ~~treat~~ threat to public health and safety regardless of whether
31 the nurse has been notified and had an opportunity to respond.

32 (5) "Encumbrance" means a revocation or suspension of, or any limitation on, the full and
33 unrestricted practice of nursing imposed by a licensing board.

34 ~~(5)~~(6) "Home state" means the party state which is the nurse's primary state of residence.

1 ~~(6)~~(7) "Home state action" means any administrative, civil, equitable or criminal action
2 permitted by the home state's laws which are imposed on a nurse by the home state's licensing
3 board or other authority including actions against an individual's license such as: revocation,
4 suspension, probation or any other action which affects a nurse's authorization to practice.

5 ~~(7)~~(8) "Licensing board" means a party state's regulatory body responsible for issuing
6 nurse licenses.

7 (9) "Multistate license" means a license to practice as a registered (RN) or a licensed
8 practical/vocational nurse (LPN/VN) issued by a home state licensing board that authorizes the
9 licensed nurse to practice in all party states under a multistate licensure privilege.

10 ~~(8)~~(10) "Multistate licensure privilege" means current, official authority from a remote
11 state permitting the practice of nursing as either a registered nurse or a licensed
12 practical/vocational nurse in such party state. All party states have the authority, in accordance
13 with existing state due process law, to take actions against the nurse's privilege such as:
14 revocation, suspension, probation or any other action which affects a nurse's authorization to
15 practice.

16 ~~(9)~~(11) "Nurse" means a registered nurse or licensed practical/vocational nurse, as those
17 terms are defined by each party's state practice laws.

18 ~~(10)~~(12) "Party state" means any state that has adopted this compact.

19 ~~(11)~~(13) "Remote state" means a party state, other than the home state, where the patient
20 is located at the time nursing care is provided, or, in the case of the practice of nursing not
21 involving a patient, in such party state where the recipient of nursing practice is located.

22 ~~(12)~~(14) "Remote state action" means any administrative, civil, equitable or criminal
23 action permitted by a remote state's laws which are imposed on a nurse by the remote state's
24 licensing board or other authority including actions against an individual's multistate licensure
25 privilege to practice in the remote state, and cease and desist and other injunctive or equitable
26 orders issued by remote states or the licensing boards thereof.

27 (15) "Single-state license" means a nurse license issued by a party state that authorizes
28 practice only within the issuing state and does not include a multistate licensure privilege to
29 practice in any other party state.

30 ~~(13)~~(16) "State" means a state, territory, or possession of the United States, the District
31 of Columbia.

32 ~~(14)~~(17) "State practice laws" means those individual party's state laws and regulations
33 that govern the practice of nursing, define the scope of nursing practice, and create the methods
34 and grounds for imposing discipline. It does not include the initial qualifications for licensure or

1 requirements necessary to obtain and retain a license, except for qualifications or requirements of
2 the home state.

3 **5-34.3-5. Permitted activities and jurisdiction.** -- (a) A license to practice registered
4 nursing issued by a home state to a resident in that state will be recognized by each party state as
5 authorizing a multistate licensure privilege to practice as a registered nurse in such party state. A
6 license to practice licensed practical/vocational nursing issued by a home state to a resident in
7 that state will be recognized by each party state as authorizing a multistate licensure privilege to
8 practice as a licensed practical/vocational nurse in such party state. In order to obtain or retain a
9 license, an applicant must meet the home state's qualifications for licensure and license renewal
10 as well as all other applicable state laws.

11 (b) A state must implement procedures for considering the criminal history records of
12 applicants for initial multistate license or licensure by endorsement. Such procedures shall
13 include the submission of fingerprints or other biometric-based information by applicants for the
14 purpose of obtaining an applicant's criminal history record information from the federal bureau of
15 investigation and the agency responsible for retaining that state's criminal records.

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

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

20 (2)(i) Has graduated or is eligible to graduate from a licensing board-approved RN or
21 LPN/VN pre-licensure education program; or

22 (ii) Has graduated from a foreign RN or LPN/VN pre-licensure education program that:

23 (A) Has been approved by the authorized accrediting body in the applicable country; and

24 (B) Has been verified by an independent credentials review agency to be comparable to a
25 licensing board-approved pre-licensure education program;

26 (3) Has, if a graduate of a foreign pre-licensure education program not taught in English,
27 or if English is not the individual's native language, successfully passed an English proficiency
28 examination that includes the components of reading, speaking, writing and listening;

29 (4) Has successfully passed an NCLEX-RN® or NCLEX-PN® examination or
30 recognized predecessor, as applicable;

31 (5) Is eligible for or holds an active, unencumbered license;

32 (6) Has submitted, in connection with an application for initial licensure or licensure by
33 endorsement, fingerprints or other biometric data for the purpose of obtaining criminal history
34 record information from the federal bureau of investigation and the agency responsible for

1 retaining that state's criminal records;

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

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

6 (9) Is not currently enrolled in an alternative program;

7 (10) Is subject to self-disclosure requirements regarding current participation in an
8 alternative program; and

9 (11) Has a valid United States social security number.

10 ~~(b)~~(d) Party states may, in accordance with state due process laws, limit or revoke the
11 multistate licensure privilege of any nurse to practice in their state and may take any other actions
12 under their applicable state laws necessary to protect the health and safety of their citizens. If a
13 party state takes such action, it shall promptly notify the administrator of the coordinated
14 licensure information system. The administrator of the coordinated licensure information system
15 shall promptly notify the home state of any such actions by remote states.

16 ~~(e)~~(e) Every nurse practicing in a party state must comply with the state practice laws of
17 the state in which the patient is located at the time care is rendered. In addition, the practice of
18 nursing is not limited to patient care, but shall include all nursing practice as defined by the state
19 practice laws of a party state. The practice of nursing will subject a nurse to the jurisdiction of the
20 nurse licensing board and courts, as well as the laws, in that party state.

21 ~~(d)~~(f) This compact does not affect additional requirements imposed by states for
22 advanced practice registered nursing. However, a multistate licensure privilege to practice
23 registered nursing granted by a party shall be recognized by other party states as a license to
24 practice registered nursing if one is required by state law as a precondition for qualifying for
25 advanced practice registered nurse authorization.

26 ~~(e)~~(g) Individuals not residing in a party state shall continue to be able to apply for nurse
27 licensure as provided for under the laws of each party state. However, the license granted to these
28 individuals will not be recognized as granting the privilege to practice nursing in any other party
29 state unless explicitly agreed to by that party state.

30 (h) Any nurse holding a home state multistate license, on the effective date of this
31 compact, may retain and renew the multistate license issued by the nurse's then-current home
32 state, provided that:

33 (1) A nurse, who changes primary state of residence after this compact's effective date,
34 must meet all applicable requirements §§5-34.3-5 and 5-34.3-6 to obtain a multistate license from

1 [a new home state.](#)

2 [\(2\) A nurse who fails to satisfy the multistate licensure requirements in §§5-34.3-5 and 5-](#)
3 [34.3-6 due to a disqualifying event occurring after this compact's effective date shall be ineligible](#)
4 [to retain or renew a multistate license, and the nurse's multistate license shall be revoked or](#)
5 [deactivated in accordance with applicable rules adopted by the Interstate Commission of Nurse](#)
6 [Licensure Compact Administrators \("commission"\).](#)

7 **5-34.3-8. Additional authorities invested in party state nurse licensing boards. --**

8 Notwithstanding any other powers, party state nurse licensing boards shall have the authority to:

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

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

19 (3) Issue cease and desist orders to limit or revoke a nurse's authority to practice in their
20 state;

21 (4) Promulgate uniform rules and regulations as provided for in subsection 5-34.3-10(c);

22 [\(5\) Obtain and submit, for each nurse licensure applicant, fingerprint or other biometric-](#)
23 [based information to the federal bureau of investigation for criminal background checks, receive](#)
24 [the results of the federal bureau of investigation record search on criminal background checks and](#)
25 [use the results in making licensure decisions.](#)

26 **5-34.3-9. Coordinated licensure information system. --** (a) All party states shall

27 participate in a cooperative effort to create a coordinated data base of all licensed registered
28 nurses and licensed practical/vocational nurses. This system will include information on the
29 licensure and disciplinary history of each nurse, as contributed by party states, to assist in the
30 coordination of nurse licensure and enforcement efforts.

31 (b) Notwithstanding any other provision of law, all party states' licensing boards shall
32 promptly report adverse actions, actions against multistate licensure privileges, any current
33 significant investigative information yet to result in adverse action, denials of applications, and
34 the reasons for such denials, [and nurse participation in alternative programs known to the](#)

1 [licensing board regardless of whether such participation is deemed nonpublic or confidential](#)
2 [under state law](#) to the coordinated licensure information system.

3 (c) Current significant investigative information [and participation in nonpublic or](#)
4 [confidential alternative programs](#) shall be transmitted through the coordinated licensure
5 information system only to party state licensing boards.

6 (d) Notwithstanding any other provision of law, all party states' licensing boards
7 contributing information to the coordinated licensure information system may designate
8 information that may not be shared with non-party states or disclosed to other entities or
9 individuals without the express permission of the contributing state.

10 (e) Any personally identifiable information obtained by a party state's licensing board
11 from the coordinated licensure information system may not be shared with non-party states or
12 disclosed to other entities or individuals except to the extent permitted by the laws of the party
13 state contributing the information.

14 (f) Any information contributed to the coordinated licensure information system that is
15 subsequently required to be expunged by the laws of the party state contributing that information,
16 shall also be expunged from the coordinated licensure information system.

17 (g) The compact administrators, acting jointly with each other and in consultation with
18 the administrator of the coordinated licensure information system, shall formulate necessary and
19 proper procedures for the identification, collection and exchange of information under this
20 compact.

21 SECTION 2. Chapter 5-34.3 of the General Laws entitled "Nurse Licensure Compact" is
22 hereby amended by adding thereto the following section:

23 **5-34.3-15. Establishment of the interstate commission of nurse licensure compact**
24 **administrators.** -- (a) [The party states hereby create and establish a joint public entity known as](#)
25 [the Interstate Commission of Nurse Licensure Compact Administrators.](#)

26 [\(1\) The commission is an instrumentality of the party states.](#)
27 [\(2\) Venue is proper, and judicial proceedings by or against the commission shall be](#)
28 [brought solely and exclusively, in a court of competent jurisdiction where the principal office of](#)
29 [the commission is located. The commission may waive venue and jurisdictional defenses to the](#)
30 [extent it adopts or consents to participate in alternative dispute resolution proceedings.](#)

31 [\(3\) Nothing in this compact shall be construed to be a waiver of sovereign immunity.](#)

32 [\(b\) Membership, voting and meetings.](#)

33 [\(1\) Each party state shall have and be limited to one administrator. The head of the state](#)
34 [licensing board or designee shall be the administrator of this compact for each party state. Any](#)

1 administrator may be removed or suspended from office as provided by the law of the state from
2 which the administrator is appointed. Any vacancy occurring in the commission shall be filled in
3 accordance with the laws of the party state in which the vacancy exists.

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

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

11 (4) All meetings shall be open to the public, and public notice of meetings shall be given
12 in the same manner as required under the rulemaking provisions under its rules.

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

15 (i) Noncompliance of a party state with its obligations under this compact;

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

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

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

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

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

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

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

27 (ix) Disclosure of information related to any reports prepared by or on behalf of the
28 commission for the purpose of investigation of compliance with this compact; or

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

30 (6) If a meeting, or portion of a meeting, is closed pursuant to this provision, the
31 commission's legal counsel or designee shall certify that the meeting may be closed and shall
32 reference each relevant exempting provision. The commission shall keep minutes that fully and
33 clearly describe all matters discussed in a meeting and shall provide a full and accurate summary
34 of actions taken, and the reasons therefor, including a description of the views expressed. All

1 documents considered in connection with an action shall be identified in such minutes. All
2 minutes and documents of a closed meeting shall remain under seal, subject to release by a
3 majority vote of the commission or order of a court of competent jurisdiction.

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

7 (1) Establishing the fiscal year of the commission;

8 (2) Providing reasonable standards and procedures:

9 (i) For the establishment and meetings of other committees; and

10 (ii) Governing any general or specific delegation of any authority or function of the
11 commission;

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

20 (4) Establishing the titles, duties and authority and reasonable procedures for the election
21 of the officers of the commission;

22 (5) Providing reasonable standards and procedures for the establishment of the personnel
23 policies and programs of the commission. Notwithstanding any civil service or other similar laws
24 of any party state, the bylaws shall exclusively govern the personnel policies and programs of the
25 commission; and

26 (6) Providing a mechanism for winding up the operations of the commission and the
27 equitable disposition of any surplus funds that may exist after the termination of this compact
28 after the payment or reserving of all of its debts and obligations;

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

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

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

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

- 1 (1) To promulgate uniform rules to facilitate and coordinate implementation and
2 administration of this compact. The rules shall have the force and effect of law and shall be
3 binding in all party states;
- 4 (2) To bring and prosecute legal proceedings or actions in the name of the commission,
5 provided that the standing of any licensing board to sue or be sued under applicable law shall not
6 be affected;
- 7 (3) To purchase and maintain insurance and bonds;
- 8 (4) To borrow, accept or contract for services of personnel, including, but not limited to,
9 employees of a party state or nonprofit organizations;
- 10 (5) To cooperate with other organizations that administer state compacts related to the
11 regulation of nursing, including, but not limited to, sharing administrative or staff expenses,
12 office space or other resources;
- 13 (6) To hire employees, elect or appoint officers, fix compensation, define duties, grant
14 such individuals appropriate authority to carry out the purposes of this compact, and to establish
15 the commission's personnel policies and programs relating to conflicts of interest, qualifications
16 of personnel and other related personnel matters;
- 17 (7) To accept any and all appropriate donations, grants and gifts of money, equipment,
18 supplies, materials and services, and to receive, utilize and dispose of the same; provided that at
19 all times the commission shall avoid any appearance of impropriety or conflict of interest;
- 20 (8) To lease, purchase, accept appropriate gifts or donations of, or otherwise to own,
21 hold, improve or use, any property, whether real, personal or mixed; provided that at all times the
22 commission shall avoid any appearance of impropriety;
- 23 (9) To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of
24 any property, whether real, personal or mixed;
- 25 (10) To establish a budget and make expenditures;
- 26 (11) To borrow money;
- 27 (12) To appoint committees, including advisory committees comprised of administrators,
28 state nursing regulators, state legislators or their representatives, and consumer representatives,
29 and other such interested persons;
- 30 (13) To provide and receive information from, and to cooperate with, law enforcement
31 agencies;
- 32 (14) To adopt and use an official seal; and
- 33 (15) To perform such other functions as may be necessary or appropriate to achieve the
34 purposes of this compact consistent with the state regulation of nurse licensure and practice.

1 (h) Financing of the commission.

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

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

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

12 (4) The commission shall keep accurate accounts of all receipts and disbursements. The
13 receipts and disbursements of the commission shall be subject to the audit and accounting
14 procedures established under its bylaws. However, all receipts and disbursements of funds
15 handled by the commission shall be audited yearly by a certified or licensed public accountant,
16 and the report of the audit shall be included in and become part of the annual report of the
17 commission.

18 (i) Qualified immunity, defense and indemnification.

19 (1) The administrators, officers, executive director, employees and representatives of the
20 commission shall be immune from suit and liability, either personally or in their official capacity,
21 for any claim for damage to or loss of property or personal injury or other civil liability caused by
22 or arising out of any actual or alleged act, error or omission that occurred, or that the person
23 against whom the claim is made had a reasonable basis for believing occurred, within the scope
24 of commission employment, duties or responsibilities; provided that nothing in this subsection
25 shall be construed to protect any such person from suit or liability for any damage, loss, injury or
26 liability caused by the intentional, willful or wanton misconduct of that person.

27 (2) The commission shall defend any administrator, officer, executive director, employee
28 or representative of the commission in any civil action seeking to impose liability arising out of
29 any actual or alleged act, error or omission that occurred within the scope of commission
30 employment, duties or responsibilities, or that the person against whom the claim is made had a
31 reasonable basis for believing occurred within the scope of commission employment, duties or
32 responsibilities; provided that nothing herein shall be construed to prohibit that person from
33 retaining their own counsel; and provided further that the actual or alleged act, error or omission
34 did not result from that person's intentional, willful or wanton misconduct.

1 (3) The commission shall indemnify and hold harmless any administrator, officer,
2 executive director, employee or representative of the commission for the amount of any
3 settlement or judgment obtained against that person arising out of any actual or alleged act, error
4 or omission that occurred within the scope of commission employment, duties or responsibilities,
5 or that such person had a reasonable basis for believing occurred within the scope of commission
6 employment, duties or responsibilities, provided that the actual or alleged act, error or omission
7 did not result from the intentional, willful or wanton misconduct of that person.

8 (j) Rulemaking.

9 (1) The commission shall exercise its rulemaking powers pursuant to the criteria set forth
10 in this section and the rules adopted thereunder. Rules and amendments shall become binding as
11 of the date specified in each rule or amendment and shall have the same force and effect as
12 provisions of this compact.

13 (2) Rules or amendments to the rules shall be adopted at a regular or special meeting of
14 the commission.

15 (3) Prior to promulgation and adoption of a final rule or rules by the commission, and at
16 least sixty (60) days in advance of the meeting at which the rule will be considered and voted
17 upon, the commission shall file a notice of proposed rulemaking:

18 (i) On the website of the commission; and

19 (ii) On the website of each licensing board or the publication in which each state would
20 otherwise publish proposed rules.

21 (4) The notice of proposed rulemaking shall include:

22 (i) The proposed time, date and location of the meeting in which the rule will be
23 considered and voted upon;

24 (ii) The text of the proposed rule or amendment, and the reason for the proposed rule;

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

26 (iv) The manner in which interested persons may submit notice to the commission of
27 their intention to attend the public hearing and any written comments.

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

30 (6) The commission shall grant an opportunity for a public hearing before it adopts a rule
31 or amendment.

32 (7) The commission shall publish the place, time and date of the scheduled public
33 hearing.

34 (i) Hearings shall be conducted in a manner providing each person who wishes to

1 comment a fair and reasonable opportunity to comment orally or in writing. All hearings will be
2 recorded, and a copy will be made available upon request.

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

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

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

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

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

19 (i) Meet an imminent threat to public health, safety or welfare;

20 (ii) Prevent a loss of commission or party state funds; or

21 (iii) Meet a deadline for the promulgation of an administrative rule that is required by
22 federal law or rule.

23 (12) The commission may direct revisions to a previously adopted rule or amendment for
24 purposes of correcting typographical errors, errors in format, errors in consistency or grammatical
25 errors. Public notice of any revisions shall be posted on the website of the commission. The
26 revision shall be subject to challenge by any person for a period of thirty (30) days after posting.
27 The revision may be challenged only on grounds that the revision results in a material change to a
28 rule. A challenge shall be made in writing, and delivered to the commission, prior to the end of
29 the notice period. If no challenge is made, the revision will take effect without further action. If
30 the revision is challenged, the revision may not take effect without the approval of the
31 commission.

32 (k) Oversight, dispute resolution and enforcement.

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

1 (2) The commission shall be entitled to receive service of process in any proceeding that
2 may affect the powers, responsibilities or actions of the commission, and shall have standing to
3 intervene in such a proceeding for all purposes. Failure to provide service of process in such
4 proceeding to the commission shall render a judgment or order void as to the commission, this
5 compact or promulgated rules.

6 (l) Default, technical assistance and termination.

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

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

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

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

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

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

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

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

32 (m) Dispute resolution.

33 (1) Upon request by a party state, the commission shall attempt to resolve disputes related
34 to the compact that arise among party states and between party and non-party states.

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

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

5 (i) The party states may submit the issues in dispute to an arbitration panel, which will be
6 comprised of individuals appointed by the compact administrator in each of the affected party
7 states and an individual mutually agreed upon by the compact administrators of all the party
8 states involved in the dispute.

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

10 (n) Enforcement.

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

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

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

21 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO BUSINESSES AND PROFESSIONS -- NURSE LICENSURE COMPACT

- 1 This act would make a number of changes to the licensure requirements of the nurse
- 2 licensure compact, and would establish an interstate commission of nurse licensure compact
- 3 administrators and define its powers and duties.
- 4 This act would take effect upon passage.

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