

**NURSE LICENSURE COMPACT**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Evan J. Vickers**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill enacts a Nurse Licensure Compact that will replace the state's current Nurse Licensure Compact if certain conditions are met.

**Highlighted Provisions:**

This bill:

- ▶ establishes findings for the Nurse Licensure Compact;
- ▶ defines terms;
- ▶ creates general provisions and jurisdiction for the compact;
- ▶ establishes a licensure process for party states;
- ▶ invests authority in party state licensing boards;
- ▶ coordinates licensure information systems and exchange of information;
- ▶ establishes the Interstate Commission of Nurse Licensure Compact Administrators;
- ▶ provides rulemaking to the commission;
- ▶ provides oversight and dispute resolution; and
- ▶ establishes an effective date for the compact.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**



28 ENACTS:

29 **58-31e-101**, Utah Code Annotated 1953

30 **58-31e-102**, Utah Code Annotated 1953

31 **58-31e-103**, Utah Code Annotated 1953



33 *Be it enacted by the Legislature of the state of Utah:*

34 Section 1. Section **58-31e-101** is enacted to read:

35 **CHAPTER 31e. NURSE LICENSURE COMPACT - REVISED**

36 **58-31e-101. Title.**

37 This chapter is known as the "Nurse Licensure Compact - Revised."

38 Section 2. Section **58-31e-102** is enacted to read:

39 **58-31e-102. Nurse Licensure Compact.**

40 The Nurse Licensure Compact is hereby enacted and entered into with all other  
41 jurisdictions that legally join in the compact, which is in form, substantially as follows:

42 NURSE LICENSURE COMPACT

43 ARTICLE I

44 Findings and Declaration of Purpose

45 a. The party states find that:

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

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

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

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

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

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



90 includes notification and an opportunity for the nurse to respond, if required by state law, has  
91 reason to believe is not groundless and, if proved true, would indicate more than a minor  
92 infraction; or

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

96 e. "Encumbrance" means a revocation or suspension of, or any limitation on, the full  
97 and unrestricted practice of nursing imposed by a licensing board.

98 f. "Home state" means the party state which is the nurse's primary state of residence.

99 g. "Licensing board" means a party state's regulatory body responsible for issuing nurse  
100 licenses.

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

104 i. "Multistate licensure privilege" means a legal authorization associated with a  
105 multistate license permitting the practice of nursing as either a registered nurse (RN) or  
106 LPN/VN in a remote state.

107 j. "Nurse" means an RN or LPN/VN, as those terms are defined by each party state's  
108 practice laws.

109 k. "Party state" means any state that has adopted this Compact.

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

111 m. "Single-state license" means a nurse license issued by a party state that authorizes  
112 practice only within the issuing state and does not include a multistate licensure privilege to  
113 practice in any other party state.

114 n. "State" means a state, territory, or possession of the United States and the District of  
115 Columbia.

116 o. "State practice laws" means a party state's laws, rules, and regulations that govern  
117 the practice of nursing, define the scope of nursing practice, and create the methods and  
118 grounds for imposing discipline. "State practice laws" do not include requirements necessary to  
119 obtain and retain a license, except for qualifications or requirements of the home state.

120 ARTICLE III

121 General Provisions and Jurisdiction

122 a. A multistate license to practice registered or licensed practical/vocational nursing  
123 issued by a home state to a resident in that state will be recognized by each party state as  
124 authorizing a nurse to practice as a registered nurse (RN) or as a licensed practical/vocational  
125 nurse (LPN/VN), under a multistate licensure privilege, in each party state.

126 b. A state must implement procedures for considering the criminal history records of  
127 applicants for initial multistate license or licensure by endorsement. Such procedures shall  
128 include the submission of fingerprints or other biometric-based information by applicants for  
129 the purpose of obtaining an applicant's criminal history record information from the Federal  
130 Bureau of Investigation and the agency responsible for retaining that state's criminal records.

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

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

135 2. i. Has graduated or is eligible to graduate from a licensing board-approved RN or  
136 LPN/VN prelicensure education program; or

137 ii. Has graduated from a foreign RN or LPN/VN prelicensure education program that  
138 (a) has been approved by the authorized accrediting body in the applicable country and (b) has  
139 been verified by an independent credentials review agency to be comparable to a licensing  
140 board-approved prelicensure education program;

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

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

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

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

151 7. Has not been convicted or found guilty, or has entered into an agreed disposition, of

152 a felony offense under applicable state or federal criminal law;

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

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

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

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

159 d. All party states shall be authorized, in accordance with existing state due process  
160 law, to take adverse action against a nurse's multistate licensure privilege such as revocation,  
161 suspension, probation, or any other action that affects a nurse's authorization to practice under a  
162 multistate licensure privilege, including cease and desist actions. If a party state takes such  
163 action, it shall promptly notify the administrator of the coordinated licensure information  
164 system. The administrator of the coordinated licensure information system shall promptly  
165 notify the home state of any such actions by remote states.

166 e. A nurse practicing in a party state must comply with the state practice laws of the  
167 state in which the client is located at the time service is provided. The practice of nursing is not  
168 limited to patient care, but shall include all nursing practice as defined by the state practice  
169 laws of the party state in which the client is located. The practice of nursing in a party state  
170 under a multistate licensure privilege will subject a nurse to the jurisdiction of the licensing  
171 board, the courts, and the laws of the party state in which the client is located at the time  
172 service is provided.

173 f. Individuals not residing in a party state shall continue to be able to apply for a party  
174 state's single-state license as provided under the laws of each party state. However, the  
175 single-state license granted to these individuals will not be recognized as granting the privilege  
176 to practice nursing in any other party state. Nothing in this Compact shall affect the  
177 requirements established by a party state for the issuance of a single-state license.

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

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

183 home state; and

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

189 ARTICLE IV

190 Applications for Licensure in a Party State

191 a. Upon application for a multistate license, the licensing board in the issuing party  
192 state shall ascertain, through the coordinated licensure information system, whether the  
193 applicant has ever held, or is the holder of, a license issued by any other state, whether there are  
194 any encumbrances on any license or multistate licensure privilege held by the applicant,  
195 whether any adverse action has been taken against any license or multistate licensure privilege  
196 held by the applicant, and whether the applicant is currently participating in an alternative  
197 program.

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

200 c. If a nurse changes primary state of residence by moving between two party states,  
201 the nurse must apply for licensure in the new home state, and the multistate license issued by  
202 the prior home state will be deactivated in accordance with applicable rules adopted by the  
203 Commission.

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

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

209 d. If a nurse changes primary state of residence by moving from a party state to a  
210 non-party state, the multistate license issued by the prior home state will convert to a  
211 single-state license, valid only in the former home state.

212 ARTICLE V

213 Additional Authorities Invested in Party State Licensing Boards

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

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

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

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

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

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

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

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

244 6. If otherwise permitted by state law, recover from the affected nurse the costs of



245 investigations and disposition of cases resulting from any adverse action taken against that  
246 nurse.

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

249 b. If adverse action is taken by the home state against a nurse's multistate license, the  
250 nurse's multistate licensure privilege to practice in all other party states shall be deactivated  
251 until all encumbrances have been removed from the multistate license. All home state  
252 disciplinary orders that impose adverse action against a nurse's multistate license shall include  
253 a statement that the nurse's multistate licensure privilege is deactivated in all party states during  
254 the pendency of the order.

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

#### 259 ARTICLE VI

##### 260 Coordinated Licensure Information System and Exchange of Information

261 a. All party states shall participate in a coordinated licensure information system of all  
262 licensed registered nurses (RNs) and licensed practical/vocational nurses (LPNs/VNs). This  
263 system will include information on the licensure and disciplinary history of each nurse, as  
264 submitted by party states, to assist in the coordination of nurse licensure and enforcement  
265 efforts.

266 b. The Commission, in consultation with the administrator of the coordinated licensure  
267 information system, shall formulate necessary and proper procedures for the identification,  
268 collection, and exchange of information under this Compact.

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

274 d. Current significant investigative information and participation in nonpublic or  
275 confidential alternative programs shall be transmitted through the coordinated licensure

276 information system only to party state licensing boards.

277 e. Notwithstanding any other provision of law, all party state licensing boards  
278 contributing information to the coordinated licensure information system may designate  
279 information that may not be shared with non-party states or disclosed to other entities or  
280 individuals without the express permission of the contributing state.

281 f. Any personally identifiable information obtained from the coordinated licensure  
282 information system by a party state licensing board shall not be shared with non-party states or  
283 disclosed to other entities or individuals except to the extent permitted by the laws of the party  
284 state contributing the information.

285 g. Any information contributed to the coordinated licensure information system that is  
286 subsequently required to be expunged by the laws of the party state contributing that  
287 information shall also be expunged from the coordinated licensure information system.

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

290 1. Identifying information;

291 2. Licensure data;

292 3. Information related to alternative program participation; and

293 4. Other information that may facilitate the administration of this Compact, as  
294 determined by Commission rules.

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

297 ARTICLE VII

298 Establishment of the Interstate Commission of Nurse Licensure Compact Administrators

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

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

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

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

307 b. Membership, Voting, and Meetings

308 1. Each party state shall have and be limited to one administrator. The head of the state  
309 licensing board or designee shall be the administrator of this Compact for each party state. Any  
310 administrator may be removed or suspended from office as provided by the law of the state  
311 from which the administrator is appointed. Any vacancy occurring in the Commission shall be  
312 filled in accordance with the laws of the party state in which the vacancy exists.

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

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

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

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

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

325 ii. The employment, compensation, discipline, or other personnel matters, practices, or  
326 procedures related to specific employees, or other matters related to the Commission's internal  
327 personnel practices and procedures;

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

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

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

331 vi. Disclosure of trade secrets or commercial or financial information that is privileged  
332 or confidential;

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

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

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

338 x. Matters specifically exempted from disclosure by federal or state statute.  
339 6. If a meeting, or portion of a meeting, is closed pursuant to this provision, the  
340 Commission's legal counsel or designee shall certify that the meeting may be closed and shall  
341 reference each relevant exempting provision. The Commission shall keep minutes that fully  
342 and clearly describe all matters discussed in a meeting and shall provide a full and accurate  
343 summary of actions taken, and the reasons therefore, including a description of the views  
344 expressed. All documents considered in connection with an action shall be identified in such  
345 minutes. All minutes and documents of a closed meeting shall remain under seal, subject to  
346 release by a majority vote of the Commission or order of a court of competent jurisdiction.

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

350 1. Establishing the fiscal year of the Commission;

351 2. Providing reasonable standards and procedures:

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

353 ii. Governing any general or specific delegation of any authority or function of the  
354 Commission;

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

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

365 5. Providing reasonable standards and procedures for the establishment of the  
366 personnel policies and programs of the Commission. Notwithstanding any civil service or other  
367 similar laws of any party state, the bylaws shall exclusively govern the personnel policies and  
368 programs of the Commission; and

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

372 d. The Commission shall publish its bylaws and rules, and any amendments thereto, in  
373 a convenient form on the website of the Commission.

374 e. The Commission shall maintain its financial records in accordance with the bylaws.

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

377 g. The Commission shall have the following powers:

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

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

384 3. To purchase and maintain insurance and bonds;

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

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

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

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

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

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

402 10. To establish a budget and make expenditures;

403 11. To borrow money;

404 12. To appoint committees, including advisory committees comprised of  
405 administrators, state nursing regulators, state legislators or their representatives, and consumer  
406 representatives, and other such interested persons;

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

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

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

412 h. Financing of the Commission

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

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

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

423 4. The Commission shall keep accurate accounts of all receipts and disbursements. The  
424 receipts and disbursements of the Commission shall be subject to the audit and accounting  
425 procedures established under its bylaws. However, all receipts and disbursements of funds  
426 handled by the Commission shall be audited yearly by a certified or licensed public accountant,  
427 and the report of the audit shall be included in and become part of the annual report of the  
428 Commission.

429 i. Qualified Immunity, Defense, and Indemnification

430 1. The administrators, officers, executive director, employees, and representatives of

431 the Commission shall be immune from suit and liability, either personally or in their official  
432 capacity, for any claim for damage to or loss of property or personal injury or other civil  
433 liability caused by or arising out of any actual or alleged act, error, or omission that occurred,  
434 or that the person against whom the claim is made had a reasonable basis for believing  
435 occurred, within the scope of Commission employment, duties, or responsibilities; provided  
436 that nothing in this paragraph shall be construed to protect any such person from suit or liability  
437 for any damage, loss, injury, or liability caused by the intentional, willful, or wanton  
438 misconduct of that person.

439 2. The Commission shall defend any administrator, officer, executive director,  
440 employee, or representative of the Commission in any civil action seeking to impose liability  
441 arising out of any actual or alleged act, error, or omission that occurred within the scope of  
442 Commission employment, duties, or responsibilities, or that the person against whom the claim  
443 is made had a reasonable basis for believing occurred within the scope of Commission  
444 employment, duties, or responsibilities; provided that nothing herein shall be construed to  
445 prohibit that person from retaining his or her own counsel; and provided further that the actual  
446 or alleged act, error, or omission did not result from that person's intentional, willful, or wanton  
447 misconduct.

448 3. The Commission shall indemnify and hold harmless any administrator, officer,  
449 executive director, employee, or representative of the Commission for the amount of any  
450 settlement or judgment obtained against that person arising out of any actual or alleged act,  
451 error, or omission that occurred within the scope of Commission employment, duties, or  
452 responsibilities, or that such person had a reasonable basis for believing occurred within the  
453 scope of Commission employment, duties, or responsibilities, provided that the actual or  
454 alleged act, error, or omission did not result from the intentional, willful, or wanton misconduct  
455 of that person.

## 456 ARTICLE VIII

### 457 Rulemaking

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

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

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

467 1. On the website of the Commission; and

468 2. On the website of each licensing board or the publication in which each state would  
469 otherwise publish proposed rules.

470 d. The notice of proposed rulemaking shall include:

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

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

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

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

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

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

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

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

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

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

491 i. Following the scheduled hearing date, or by the close of business on the scheduled  
492 hearing date if the hearing was not held, the Commission shall consider all written and oral



493 comments received.

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

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

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

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

505 3. Meet a deadline for the promulgation of an administrative rule that is required by  
506 federal law or rule.

507 1. The Commission may direct revisions to a previously adopted rule or amendment for  
508 purposes of correcting typographical errors, errors in format, errors in consistency, or  
509 grammatical errors. Public notice of any revisions shall be posted on the website of the  
510 Commission. The revision shall be subject to challenge by any person for a period of thirty (30)  
511 days after posting. The revision may be challenged only on grounds that the revision results in  
512 a material change to a rule. A challenge shall be made in writing, and delivered to the  
513 Commission, prior to the end of the notice period. If no challenge is made, the revision will  
514 take effect without further action. If the revision is challenged, the revision may not take effect  
515 without the approval of the Commission.

## 516 ARTICLE IX

### 517 Oversight, Dispute Resolution, and Enforcement

#### 518 a. Oversight

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

521 2. The Commission shall be entitled to receive service of process in any proceeding that  
522 may affect the powers, responsibilities, or actions of the Commission, and shall have standing  
523 to intervene in such a proceeding for all purposes. Failure to provide service of process in such

524 proceeding to the Commission shall render a judgment or order void as to the Commission, this  
525 Compact, or promulgated rules.

526 b. Default, Technical Assistance, and Termination

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

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

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

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

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

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

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

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

553 c. Dispute Resolution

554 1. Upon request by a party state, the Commission shall attempt to resolve disputes

555 related to the Compact that arise among party states and between party and non-party states.

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

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

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

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

565 d. Enforcement

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

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

574 3. The remedies herein shall not be the exclusive remedies of the Commission. The  
575 Commission may pursue any other remedies available under federal or state law.

## 576 ARTICLE X

### 577 Effective Date, Withdrawal, and Amendment

578 a. This Compact, enacted in Title 58, Chapter 31e, Nurse Licensure Compact - Revised  
579 ("This Compact"), shall become effective and binding on the earlier of the date of legislative  
580 enactment of this Compact into law by no less than twenty-six (26) states or December 31,  
581 2018. All party states to this Compact, that also were parties to the prior Nurse Licensure  
582 Compact, enacted in Title 58, Chapter 31c, Nurse Licensure Compact, superseded by this  
583 Compact, ("Prior Compact"), shall be deemed to have withdrawn from said Prior Compact  
584 within six (6) months after the effective date of this Compact.

585 b. Each party state to this Compact shall continue to recognize a nurse's multistate

586 licensure privilege to practice in that party state issued under the Prior Compact until such  
587 party state has withdrawn from the Prior Compact.

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

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

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

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

601 g. Representatives of non-party states to this Compact shall be invited to participate in  
602 the activities of the Commission, on a nonvoting basis, prior to the adoption of this Compact  
603 by all states.

## 604 ARTICLE XI

### 605 Construction and Severability

606 This Compact shall be liberally construed so as to effectuate the purposes thereof. The  
607 provisions of this Compact shall be severable, and if any phrase, clause, sentence, or provision  
608 of this Compact is declared to be contrary to the constitution of any party state or of the United  
609 States, or if the applicability thereof to any government, agency, person, or circumstance is held  
610 invalid, the validity of the remainder of this Compact and the applicability thereof to any  
611 government, agency, person, or circumstance shall not be affected thereby. If this Compact  
612 shall be held to be contrary to the constitution of any party state, this Compact shall remain in  
613 full force and effect as to the remaining party states and in full force and effect as to the party  
614 state affected as to all severable matters.

615 Section 3. Section **58-31e-103** is enacted to read:

616 **58-31e-103. Implementation and rulemaking authority.**

617           (1) The term "head of the state licensing board," as used in Article VII b(1) of the  
618 Nurse Licensure Compact in Section 58-31e-102, means an individual who is an ex-officio  
619 member of the Board of Nursing created in Section 58-31b-201 and is appointed by the director  
620 to serve as the head of the state licensing board for purposes of Article VII b(1) of the Nurse  
621 Licensure Compact.

622           (2) The division may, in accordance with Title 63G, Chapter 3, Utah Administrative  
623 Rulemaking Act, make rules necessary to implement the provisions of this chapter.

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**