

# An Act

ENROLLED HOUSE  
BILL NO. 2482

By: Ownbey, Griffith, Moore,  
Montgomery, Caldwell,  
Shelton, Sanders, McDaniel  
(Randy), Wright, Echols,  
Roberts (Dustin), Munson,  
Murdock and Scott of the  
House

and

Simpson, Pittman,  
Stanislawski, Dossett,  
Sparks and Newberry of the  
Senate

An Act relating to professions and occupations; amending 59 O.S. 2011, Sections 567.7, 567.8, as amended by Section 3, Chapter 228, O.S.L. 2013, 567.12 and 567.17 (59 O.S. Supp. 2015, Section 567.8), which relate to the Oklahoma Nursing Practice Act; establishing certain fees for multistate license; granting power to deny, revoke or suspend multistate privilege to practice nursing; removing certain provisions related to nursing education programs for practical nurses; requiring Executive Director to suspend license of certain licensee upon default from peer assistance program; requiring certain licensee to be disciplined; setting forth terms of Nurse Licensure Compact; providing that nurses practicing under license of state that is a party to compact have same rights and obligations as holder of Oklahoma license; requiring Oklahoma Board of Nursing to take certain action against certain individuals; requiring Board to provide certain information to certain individuals; permitting Board to disclose certain information; permitting Board to receive certain grant funding; providing for codification; and providing an effective date.

SUBJECT: Licensing of nurses

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 59 O.S. 2011, Section 567.7, is amended to read as follows:

Section 567.7 A. Upon expiration of an initial license or certificate issued pursuant to the Oklahoma Nursing Practice Act, a license or certificate shall be renewed every two (2) years according to a schedule published by the Oklahoma Board of Nursing, provided that the application is complete and qualifying criteria continues to be met.

B. A licensee or certificate holder who applies for reinstatement of a license or certificate shall meet such requirements as the Board may prescribe in its rules.

C. Any licensee or certificate holder who desires to retire temporarily from the practice of nursing in this state shall submit a written request to that effect to the Board. It shall be the duty of the Board to place the name of such licensee or certificate holder upon the nonpracticing list in accordance with the rules of the Board. During the period of temporary retirement, the licensee or certificate holder shall not practice nursing, Advanced Practice Registered Nursing or practice as an Advanced Unlicensed Assistant nor be subject to the payment of any renewal fees. When the licensee or certificate holder desires to resume practice, such licensee or certificate holder shall meet such requirements as the Board may prescribe in its rules.

D. The Board is authorized to establish by rule fees to be charged for the purpose of implementing and enforcing the provisions of the Oklahoma Nursing Practice Act; provided, however, no single fee for an initial application for licensure or certification, or for renewal, reinstatement or return to active practice shall exceed One Hundred Twenty-five Dollars (\$125.00). The application fee for a multistate license issued pursuant to Section 5 of this act shall be One Hundred Fifty Dollars (\$150.00). The biennial multistate license renewal fee shall be One Hundred Twenty-five Dollars (\$125.00); provided, however, that contingent upon implementation of the Nurse Licensure Compact and the Board's revolving fund balance being reconciled at less than the average of three (3) months of expenditures, the biennial renewal fee set forth

in Oklahoma Administrative Code 485:10-1-3(a)(2) shall increase by Ten Dollars (\$10.00) by operation of law. The Board may reduce the biennial renewal fees on a pro rata basis for the specific Registered Nurse and Licensed Practical Nurse biennial renewal period.

E. The Executive Director of the Board shall suspend the license or certificate of a person who submits a check, money draft, or similar instrument for payment of a fee which is not honored by the financial institution named. The suspension becomes effective ten (10) days following delivery by certified mail of written notice of the dishonor and the impending suspension to the person's address on file. Upon notification of suspension, the person may reinstate the authorization to practice upon payment of the fees and any and all costs associated with notice and collection. The suspension shall be exempt from the Administrative Procedures Act.

SECTION 2. AMENDATORY 59 O.S. 2011, Section 567.8, as amended by Section 3, Chapter 228, O.S.L. 2013 (59 O.S. Supp. 2015, Section 567.8), is amended to read as follows:

Section 567.8 A. The Oklahoma Board of Nursing shall have the power to take any or all of the following actions:

1. To deny, revoke or suspend any:
  - a. licensure to practice as a Licensed Practical Nurse, single-state or multistate,
  - b. licensure to practice as a Registered Nurse, single-state or multistate,
  - c. multistate privilege to practice in Oklahoma,
  - d. licensure to practice as an Advanced Practice Registered Nurse,
  - ~~d.~~ e. certification to practice as an Advanced Unlicensed Assistant,
  - ~~e.~~ f. authorization for prescriptive authority, or
  - ~~f.~~ g. authority to order, select, obtain and administer drugs;

2. To assess administrative penalties; and

3. To otherwise discipline applicants, licensees or Advanced Unlicensed Assistants.

B. The Board shall impose a disciplinary action against the person pursuant to the provisions of subsection A of this section upon proof ~~of one or more of the following items.~~ The that the person:

1. Is guilty of deceit or material misrepresentation in procuring or attempting to procure:

- a. a license to practice registered nursing, licensed practical nursing, or recognition to practice advanced practice registered nursing, or
- b. certification as an Advanced Unlicensed Assistant;

2. Is guilty of a felony, or any offense reasonably related to the qualifications, functions or duties of any licensee or Advanced Unlicensed Assistant, or any offense an essential element of which is fraud, dishonesty, or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed, or any conduct resulting in the revocation of a deferred or suspended sentence or probation imposed pursuant to such conviction;

3. Fails to adequately care for patients or to conform to the minimum standards of acceptable nursing or Advanced Unlicensed Assistant practice that, in the opinion of the Board, unnecessarily exposes a patient or other person to risk of harm;

4. Is intemperate in the use of alcohol or drugs, which use the Board determines endangers or could endanger patients;

5. Exhibits through a pattern of practice or other behavior actual or potential inability to practice nursing with sufficient knowledge or reasonable skills and safety due to impairment caused by illness, use of alcohol, drugs, chemicals or any other substance, or as a result of any mental or physical condition, including deterioration through the aging process or loss of motor skills, mental illness, or disability that results in inability to practice with reasonable judgment, skill or safety; provided, however, the provisions of this paragraph shall not be utilized in a manner that

conflicts with the provisions of the Americans with Disabilities Act;

6. Has been adjudicated as mentally incompetent, mentally ill, chemically dependent or dangerous to the public or has been committed by a court of competent jurisdiction, within or without this state;

7. Is guilty of unprofessional conduct as defined in the rules of the Board;

8. Is guilty of any act that jeopardizes a patient's life, health or safety as defined in the rules of the Board;

9. Violated a rule promulgated by the Board, an order of the Board, or a state or federal law relating to the practice of registered, practical or advanced practice registered nursing or advanced unlicensed assisting, or a state or federal narcotics or controlled dangerous substance law;

10. Has had disciplinary actions taken against the individual's registered or practical nursing license, advanced unlicensed assistive certification, or any professional or occupational license, registration or certification in this or any state, territory or country;

11. Has defaulted from the Peer Assistance Program for any reason;

12. Fails to maintain professional boundaries with patients, as defined in the Board rules; and/or

13. Engages in sexual misconduct, as defined in Board rules, with a current or former patient or key party, inside or outside the health care setting.

C. Any person who supplies the Board information in good faith shall not be liable in any way for damages with respect to giving such information.

D. The Board may cause to be investigated all reported violations of the Oklahoma Nursing Practice Act.

E. The Board may authorize the executive director to issue a confidential letter of concern to a licensee when evidence does not

warrant formal proceedings, but the ~~executive director~~ Executive Director has noted indications of possible errant conduct that could lead to serious consequences and formal action.

F. All individual proceedings before the Board shall be conducted in accordance with the Administrative Procedures Act.

G. At a hearing the accused shall have the right to appear either personally or by counsel, or both, to produce witnesses and evidence on behalf of the accused, to cross-examine witnesses and to have subpoenas issued by the designated Board staff. If the accused is found guilty of the charges the Board may refuse to issue a renewal of license to the applicant, revoke or suspend a license, or otherwise discipline a licensee.

H. A person whose license is revoked may not apply for reinstatement during the time period set by the Board. The Board on its own motion may at any time reconsider its action.

I. Any person whose license is revoked or who applies for renewal of registration and who is rejected by the Board shall have the right to appeal from such action pursuant to the Administrative Procedures Act.

J. 1. Any person who has been determined by the Board to have violated any provisions of the Oklahoma Nursing Practice Act or any rule or order issued pursuant thereto shall be liable for an administrative penalty not to exceed Five Hundred Dollars (\$500.00) for each count for which any holder of a certificate or license has been determined to be in violation of the Oklahoma Nursing Practice Act or any rule promulgated or order issued pursuant thereto.

2. The amount of the penalty shall be assessed by the Board pursuant to the provisions of this section, after notice and an opportunity for hearing is given to the accused. In determining the amount of the penalty, the Board shall include, but not be limited to, consideration of the nature, circumstances, and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, the effect on ability of the person to continue to practice, and any show of good faith in attempting to achieve compliance with the provisions of the Oklahoma Nursing Practice Act.

K. The Board shall retain jurisdiction over any person issued a license, certificate or temporary license pursuant to this act,

regardless of whether the license, certificate or temporary license has expired, lapsed or been relinquished during or after the alleged occurrence or conduct prescribed by this act.

L. In the event disciplinary action is imposed, any person so disciplined shall be responsible for any and all costs associated with satisfaction of the discipline imposed.

M. In the event disciplinary action is imposed in an administrative proceeding, the Board shall have the authority to recover the monies expended by the Board in pursuing any disciplinary action, including but not limited to costs of investigation, probation or monitoring fees, administrative costs, witness fees, attorney fees and court costs. This authority shall be in addition to the Board's authority to impose discipline as set out in subsection A of this section.

N. The Executive Director shall immediately suspend the license of any person upon proof that the person has been sentenced to a period of continuous incarceration serving a penal sentence for commission of a misdemeanor or felony. The suspension shall remain in effect until the Board acts upon the licensee's written application for reinstatement of the license.

SECTION 3. AMENDATORY 59 O.S. 2011, Section 567.12, is amended to read as follows:

Section 567.12 A. To qualify in this state as an approved program for registered nurses, the program ~~must~~ shall be conducted in the State of Oklahoma in an accredited college or university leading to an associate, baccalaureate, or higher degree in nursing. Such programs shall meet the standards fixed by the Oklahoma Board of Nursing and prescribed in its rules.

B. To qualify in this state as an approved program for practical nurses, the program shall be conducted in this state in a school or skill center approved by the Oklahoma Department of Career and Technology Education or licensed by the Oklahoma Board of Private Vocational Schools. Such programs shall meet the standards fixed by the Oklahoma Board of Nursing as prescribed in its rules, which shall conform to the provisions of this subsection.

~~1. The nursing education program for practical nurses shall be administered by a licensed practical nurse coordinator who:~~

- a. ~~is a registered nurse with a minimum of an associate degree or diploma in nursing currently licensed in Oklahoma,~~
- b. ~~has a minimum of a baccalaureate degree, preferably in nursing,~~
- c. ~~has a minimum of two (2) years full-time-equivalent practice as a registered nurse in a clinical setting, within the last five (5) years preceding the first date of first employment as a teacher, and~~
- d. ~~has at least one (1) academic year, full-time experience in a nursing education program.~~

~~2. All nurse faculty of a nursing program for practical nurses shall:~~

- a. ~~hold a valid license to practice as a registered nurse with a minimum of an associate degree or diploma in nursing in this state, and~~
- b. ~~present evidence of a minimum of two (2) years full-time-equivalent practice as a registered nurse in a clinical setting, within the last five (5) years preceding the first date of first employment as a teacher.~~

~~3. Nursing faculty who teach in programs offering the certificate in practical nursing shall have completed at least fifteen (15) semester hours in nursing, general education, social sciences, physical sciences or counseling and guidance. These credits shall be in addition to the pre-service basic program in nursing unless the person holds a baccalaureate degree in nursing.~~

~~4. Schools shall establish the baccalaureate degree as minimum preparation for teaching and a nurse faculty member shall have a written plan for obtaining a baccalaureate degree, preferably in nursing.~~

~~5. Faculty employed in schools conducted by public comprehensive high school systems shall meet the requirements for teacher certification established by the State Department of Education.~~

SECTION 4. AMENDATORY 59 O.S. 2011, Section 567.17, is amended to read as follows:

Section 567.17 A. There is hereby established a peer assistance program to rehabilitate nurses whose competency may be compromised because of the abuse of drugs or alcohol, so that such nurses can be treated and can return to or continue the practice of nursing in a manner which will benefit the public. The program shall be under the supervision and control of the Oklahoma Board of Nursing.

B. The Board shall appoint one or more peer assistance evaluation advisory committees hereinafter called the "peer assistance committees". Each of these committees shall be composed of members, the majority of which shall be licensed nurses with expertise in chemical dependency. The peer assistance committees shall function under the authority of the Oklahoma Board of Nursing in accordance with the rules of the Board. The committee members shall serve without pay, but may be reimbursed for the expenses incurred in the discharge of their official duties in accordance with the State Travel Reimbursement Act.

C. The Board shall appoint and employ a qualified person, who shall be a registered nurse, to serve as program coordinator and shall fix such person's compensation. The Board shall define the duties of the program coordinator who shall report directly to the Executive Director of the Board and be subject to the Executive Director's direction and control.

D. The Board is authorized to adopt and revise rules, not inconsistent with the Oklahoma Nursing Practice Act, as may be necessary to enable it to carry into effect the provisions of this section.

E. A portion of licensing fees for each nurse not to exceed Ten Dollars (\$10.00) may be used to implement and maintain the peer assistance program.

F. Records of the nurse enrolled in the peer assistance program shall be maintained in the program office in a place separate and apart from the Board's records. The records shall be made public only by subpoena and court order; provided, however, confidential treatment shall be canceled upon default by the nurse in complying with the requirements of the program.

G. Any person making a report to the Board or to a peer assistance committee regarding a nurse suspected of practicing nursing while habitually intemperate or addicted to the use of habit-forming drugs, or a nurse's progress or lack of progress in rehabilitation, shall be immune from any civil or criminal action resulting from such reports, provided such reports are made in good faith.

H. A nurse's participation in the peer assistance program in no way precludes additional proceedings by the Board for acts or omissions of acts not specifically related to the circumstances resulting in the nurse's entry into the program. However, in the event the nurse defaults from the program, the Board may discipline the nurse for those acts which led to the nurse entering the program.

I. The Executive Director of the Board shall suspend the license of a licensee who applied and entered the peer assistance program by choice without any order by the Board immediately upon notification that the licensee has defaulted from the peer assistance program, and shall assign a hearing date for the matter to be presented to the Board. A licensee who was directed to apply and enter the peer assistance program by an order of the Board and who does not enter or who defaults from the peer assistance program for any reason shall be disciplined as set forth in the order of the Board that directed the nurse to apply and enter the peer assistance program.

J. Any person who enters the peer assistance program voluntarily or otherwise shall be responsible for any and all costs associated with participation in the peer assistance program.

K. A nurse may apply to participate in the peer assistance program by choice or may be directed to apply to the program by an order of the Board. In either case, conditions shall be placed on the nurse's license to practice nursing during the period of participation in the peer assistance program.

L. As used in this section, unless the context otherwise requires:

1. "Board" means the Oklahoma Board of Nursing; and
2. "Peer assistance committee" means the peer assistance evaluation advisory committee created in this section, which is

appointed by the Oklahoma Board of Nursing to carry out specified duties.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 567.21 of Title 59, unless there is created a duplication in numbering, reads as follows:

### Nurse Licensure Compact

#### ARTICLE I

##### Findings and Declaration of Purpose

a. The party states find that:

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

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

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

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

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

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

b. The general purposes of this Compact are to:

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

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

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

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

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

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

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

## ARTICLE II

### Definitions

As used in this Compact:

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

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

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

d. "Current significant investigative information" means:

1. Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity

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

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

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

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

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

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

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

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

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

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

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

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

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

### ARTICLE III

#### General Provisions and Jurisdiction

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

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

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

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

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

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

licensing-board-approved prelicensure education program;

3. Has, if a graduate of a foreign prelicensure education program, not taught in English or if English is not the individual's native language, successfully passed an English proficiency examination that includes the components of reading, speaking, writing and listening;
4. Has successfully passed an NCLEX-RN<sup>®</sup> or NCLEX-PN<sup>®</sup> Examination or recognized predecessor, as applicable;
5. Is eligible for or holds an active, unencumbered license;
6. Has submitted, in connection with an application for initial licensure or licensure by endorsement, fingerprints or other biometric data for the purpose of obtaining criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records;
7. Has not been convicted or found guilty, or has entered into an agreed disposition, of a felony offense under applicable state or federal criminal law;
8. Has not been convicted or found guilty, or has entered into an agreed disposition, of a misdemeanor offense related to the practice of nursing as determined on a case-by-case basis;
9. Is not currently enrolled in an alternative program;
10. Is subject to self-disclosure requirements regarding current participation in an alternative program; and
11. Has a valid United States Social Security number.

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

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

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

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

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

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

#### ARTICLE IV

##### Applications for Licensure in a Party State

a. Upon application for a multistate license, the licensing board in the issuing party state shall ascertain, through the coordinated licensure information system, whether the applicant has ever held, or is the holder of, a license issued by any other state,

whether there are any encumbrances on any license or multistate licensure privilege held by the applicant, whether any adverse action has been taken against any license or multistate licensure privilege held by the applicant and whether the applicant is currently participating in an alternative program.

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

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

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

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

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

## ARTICLE V

### Additional Authorities Invested in Party-state Licensing Boards

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

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

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

ii. For purposes of taking adverse action, the home-state licensing board shall give the same priority and

effect to reported conduct received from a remote state as it would if such conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action;

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

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

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

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

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

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

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

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

## ARTICLE VI

### Coordinated Licensure Information System

#### and Exchange of Information

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

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

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

d. Current significant investigative information and participation in nonpublic or confidential alternative programs

shall be transmitted through the coordinated licensure information system only to party-state licensing boards.

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

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

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

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

1. Identifying information;
2. Licensure data;
3. Information related to alternative program participation;

and

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

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

## ARTICLE VII

### Establishment of the Interstate Commission of Nurse Licensure Compact Administrators

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

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

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

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

b. Membership, Voting and Meetings

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

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

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

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

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

- i. Noncompliance of a party state with its obligations under this Compact;
- ii. The employment, compensation, discipline or other personnel matters, practices or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;
- iii. Current, threatened or reasonably anticipated litigation;
- iv. Negotiation of contracts for the purchase or sale of goods, services or real estate;
- v. Accusing any person of a crime or formally censuring any person;
- vi. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;
- vii. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
- viii. Disclosure of investigatory records compiled for law enforcement purposes;
- ix. Disclosure of information related to any reports prepared by or on behalf of the Commission for the purpose of investigation of compliance with this Compact; or
- x. Matters specifically exempted from disclosure by federal or state statute.

6. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed. All documents considered in connection with an action

shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

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

1. Establishing the fiscal year of the Commission;
2. Providing reasonable standards and procedures:
  - i. For the establishment and meetings of other committees; and
  - ii. Governing any general or specific delegation of any authority or function of the Commission;

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

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

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

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

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

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

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

g. The Commission shall have the following powers:

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

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

3. To purchase and maintain insurance and bonds;

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

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

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

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

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

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

10. To establish a budget and make expenditures;

11. To borrow money;

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

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

14. To adopt and use an official seal; and

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

h. Financing of the Commission

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

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

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

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

i. Qualified Immunity, Defense and Indemnification

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

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

3. The Commission shall indemnify and hold harmless any administrator, officer, executive director, employee or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities, provided

that the actual or alleged act, error or omission did not result from the intentional, willful or wanton misconduct of that person.

## ARTICLE VIII

### Rulemaking

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

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

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

1. On the website of the Commission; and

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

d. The notice of proposed rulemaking shall include:

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Meet an imminent threat to public health, safety or welfare;
2. Prevent a loss of Commission or party state funds; or

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

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

## ARTICLE IX

### Oversight, Dispute Resolution and Enforcement

#### a. Oversight

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

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

#### b. Default, Technical Assistance and Termination

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

- i. Provide written notice to the defaulting state and other party states of the nature of the default, the proposed means of curing the default or any other action to be taken by the Commission; and
- ii. Provide remedial training and specific technical assistance regarding the default.

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

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

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

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

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

c. Dispute Resolution

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

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

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

- i. The party states may submit the issues in dispute to an arbitration panel, which will be comprised of individuals appointed by the Compact administrator in each of the affected party states and an individual mutually agreed upon by the Compact administrators of all the party states involved in the dispute.
- ii. The decision of a majority of the arbitrators shall be final and binding.

d. Enforcement

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

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

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

## ARTICLE X

### Effective Date, Withdrawal and Amendment

a. This Compact shall become effective and binding on the earlier of the date of legislative enactment of this Compact into law by no less than twenty-six (26) states or December 31, 2018. All party states to this Compact that also were parties to the prior Nurse Licensure Compact superseded by this Compact (Prior Compact) shall be deemed to have withdrawn from said Prior Compact within six (6) months after the effective date of this Compact.

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

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

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

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

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

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

## ARTICLE XI

### Construction and Severability

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

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 567.22 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The terms "registered nurse" and "licensed practical nurse" include persons licensed as registered nurses and/or practical/vocational nurses by a state that is a party to the Nurse Licensure Compact.

B. Unless the context indicates otherwise or doing so would be inconsistent with the Nurse Licensure Compact, nurses practicing in this state under a license issued by a state that is a party to the Nurse Licensure Compact have the same rights and obligations as imposed by the laws of this state on license holders of the Oklahoma Board of Nursing.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 567.23 of Title 59, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Board of Nursing is the state agency responsible for taking action against registered and practical/vocational nurses practicing in this state under a license issued by a state that is a party to the Nurse Licensure Compact as authorized by the Nurse Licensure Compact. The action shall be taken in accordance with the same procedures for taking action against registered and practical nurses licensed by this state.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 567.24 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. On request and payment of a certified verification fee, the Oklahoma Board of Nursing shall provide a registered or practical nurse licensed by this state with a copy of information regarding the nurse maintained by the coordinated licensure information system under Article 6 of the Nurse Licensure Compact.

B. A board is not obligated to provide information that is not available to the board or information that is not available to the nurse under the laws of the state contributing the information to the coordinated licensure information system.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 567.25 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. In reporting information to the coordinated licensure information system under Article 6 of the Nurse Licensure Compact, the Oklahoma Board of Nursing may disclose information that identifies a person, including Social Security number and date of birth.

B. The coordinated licensure information system may not share information that identifies a person with a state not a party to the Compact unless the state agrees not to disclose that information to other persons.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 567.26 of Title 59, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Board of Nursing may receive grant funding for implementation of the Nurse Licensure Compact directly from the National Council of State Boards of Nursing, Inc.

SECTION 11. This act shall become effective November 1, 2016.

Passed the House of Representatives the 1st day of March, 2016.

\_\_\_\_\_  
Presiding Officer of the House  
of Representatives

Passed the Senate the 20th day of April, 2016.

\_\_\_\_\_  
Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_