

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

HOUSE BILL 4125

By: Roberts (Sean)

AS INTRODUCED

An Act relating to professions and occupations;  
amending Section 5, Chapter 190, O.S.L. 2016 (59 O.S.  
Supp. 2019, Section 567.21), which relates to the  
Nurse Licensure Compact; providing for multistate  
license restriction; and providing an effective date.

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

SECTION 1. AMENDATORY Section 5, Chapter 190, O.S.L.  
2016 (59 O.S. Supp. 2019, Section 567.21), is amended to read as  
follows:

Section 567.21

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;

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

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

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

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

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

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

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

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

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

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

23        5. Invest all party states with the authority to hold a nurse  
24 accountable for meeting all state practice laws in the state in

1 which the patient is located at the time care is rendered through  
2 the mutual recognition of party-state licenses;

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

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

## 7 ARTICLE II

### 8 Definitions

9 As used in this Compact:

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

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

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

1 d. "Current significant investigative information" means:

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

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

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

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

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

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

23 i. "Multistate licensure privilege" means a legal authorization  
24 associated with a multistate license permitting the practice of

1 nursing as either a registered nurse (RN) or LPN/VN in a remote  
2 state.

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

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

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

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

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

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

## 20 ARTICLE III

### 21 General Provisions and Jurisdiction

22 a. A multistate license to practice registered or licensed  
23 practical/vocational nursing issued by a home state to a resident in  
24 that state will be recognized by each party state as authorizing a

1 nurse to practice as a registered nurse (RN) or as a licensed  
2 practical/vocational nurse (LPN/VN), under a multistate licensure  
3 privilege, in each party state.

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

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

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

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

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

1                   licensing-board-approved prelicensure education  
2                   program;

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

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

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

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

16          7.   Has not been convicted or found guilty, or has entered into  
17 an agreed disposition, of a felony offense under applicable state or  
18 federal criminal law;

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

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

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

1        11. Has a valid United States Social Security number.

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

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

22        f. Individuals not residing in a party state shall continue to  
23 be able to apply for a party state's single-state license as  
24 provided under the laws of each party state. However, the single-



1 state license granted to these individuals will not be recognized as  
2 granting the privilege to practice nursing in any other party state.  
3 Nothing in this Compact shall affect the requirements established by  
4 a party state for the issuance of a single-state license.

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

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

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

#### 19 ARTICLE IV

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

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

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

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

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

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

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

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

1     e. A multistate license issued pursuant to the Nurse Licensure  
2     Compact shall not exceed the scope of the license issued by a party  
3     state.

4                                   ARTICLE V

5     Additional Authorities Invested in Party-state Licensing Boards

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

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

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

13             ii. For purposes of taking adverse action, the home-state  
14             licensing board shall give the same priority and  
15             effect to reported conduct received from a remote  
16             state as it would if such conduct had occurred within  
17             the home state. In so doing, the home state shall  
18             apply its own state laws to determine appropriate  
19             action;

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

22         3. Complete any pending investigations of a nurse who changes  
23     primary state of residence during the course of such investigations.

24     The licensing board shall also have the authority to take

1 appropriate action(s) and shall promptly report the conclusions of  
2 such investigations to the administrator of the coordinated  
3 licensure information system. The administrator of the coordinated  
4 licensure information system shall promptly notify the new home  
5 state of any such actions;

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

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

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

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

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

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

## 21                   ARTICLE VI

### 22                   Coordinated Licensure Information System

### 23                   and Exchange of Information

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

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

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

18       d. Current significant investigative information and  
19 participation in nonpublic or confidential alternative programs  
20 shall be transmitted through the coordinated licensure information  
21 system only to party-state licensing boards.

22       e. Notwithstanding any other provision of law, all party-state  
23 licensing boards contributing information to the coordinated  
24 licensure information system may designate information that may not

1 be shared with nonparty states or disclosed to other entities or  
2 individuals without the express permission of the contributing  
3 state.

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

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

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

- 16 1. Identifying information;  
17 2. Licensure data;  
18 3. Information related to alternative program participation;

19 and

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

22 i. The Compact administrator of a party state shall provide all  
23 investigative documents and information requested by another party  
24 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.



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

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

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

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

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

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

23           iii. Current, threatened or reasonably anticipated  
24           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

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

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

10 1. Establishing the fiscal year of the Commission;

11 2. Providing reasonable standards and procedures:

12 i. For the establishment and meetings of other  
13 committees; and

14 ii. Governing any general or specific delegation of any  
15 authority or function of the Commission;

16 3. Providing reasonable procedures for calling and conducting  
17 meetings of the Commission, ensuring reasonable advance notice of  
18 all meetings and providing an opportunity for attendance of such  
19 meetings by interested parties, with enumerated exceptions designed  
20 to protect the public's interest, the privacy of individuals, and  
21 proprietary information, including trade secrets. The Commission  
22 may meet in closed session only after a majority of the  
23 administrators vote to close a meeting in whole or in part. As soon  
24 as practicable, the Commission must make public a copy of the vote

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

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

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

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

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

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

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

21 g. The Commission shall have the following powers:

22 1. To promulgate uniform rules to facilitate and coordinate  
23 implementation and administration of this Compact. The rules shall  
24

1 have the force and effect of law and shall be binding in all party  
2 states;

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

6 3. To purchase and maintain insurance and bonds;

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

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

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

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

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

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

8        10. To establish a budget and make expenditures;

9        11. To borrow money;

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

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

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

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

20       h. Financing of the Commission

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

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

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

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

18       i. Qualified Immunity, Defense and Indemnification

19       1. The administrators, officers, executive director, employees  
20 and representatives of the Commission shall be immune from suit and  
21 liability, either personally or in their official capacity, for any  
22 claim for damage to or loss of property or personal injury or other  
23 civil liability caused by or arising out of any actual or alleged  
24 act, error or omission that occurred, or that the person against

1 whom the claim is made had a reasonable basis for believing  
2 occurred, within the scope of Commission employment, duties or  
3 responsibilities; provided, that nothing in this paragraph shall be  
4 construed to protect any such person from suit or liability for any  
5 damage, loss, injury or liability caused by the intentional, willful  
6 or wanton misconduct of that person.

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

19       3. The Commission shall indemnify and hold harmless any  
20 administrator, officer, executive director, employee or  
21 representative of the Commission for the amount of any settlement or  
22 judgment obtained against that person arising out of any actual or  
23 alleged act, error or omission that occurred within the scope of  
24 Commission employment, duties or responsibilities, or that such



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

## 5 ARTICLE VIII

### 6 Rulemaking

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

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

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

- 18 1. On the website of the Commission; and
- 19 2. On the website of each licensing board or the publication in  
20 which each state would otherwise publish proposed rules.

21 d. The notice of proposed rulemaking shall include:

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

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

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

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

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

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

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

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

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

22       h. If no one appears at the public hearing, the Commission may  
23 proceed with promulgation of the proposed rule.  
24

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

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

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

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

21 1. The Commission may direct revisions to a previously adopted  
22 rule or amendment for purposes of correcting typographical errors,  
23 errors in format, errors in consistency or grammatical errors.

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

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

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

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

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

23        4. A state whose membership in this Compact has been terminated  
24 is responsible for all assessments, obligations and liabilities

1 incurred through the effective date of termination, including  
2 obligations that extend beyond the effective date of termination.

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

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

12 c. Dispute Resolution

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

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

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

- 21 i. The party states may submit the issues in dispute to  
22 an arbitration panel, which will be comprised of  
23 individuals appointed by the Compact administrator in  
24 each of the affected party states and an individual

1 mutually agreed upon by the Compact administrators of  
2 all the party states involved in the dispute.

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

5 d. Enforcement

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

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

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

20 ARTICLE X

21 Effective Date, Withdrawal and Amendment

22 a. This Compact shall become effective and binding on the  
23 earlier of the date of legislative enactment of this Compact into  
24 law by no less than twenty-six ~~(26)~~ states or December 31, 2018.

1 All party states to this Compact that also were parties to the prior  
2 Nurse Licensure Compact superseded by this Compact (Prior Compact)  
3 shall be deemed to have withdrawn from said Prior Compact within six  
4 (6) months after the effective date of this Compact.

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

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

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

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

23 f. This Compact may be amended by the party states. No  
24 amendment to this Compact shall become effective and binding upon



1 the party states unless and until it is enacted into the laws of all  
2 party states.

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

## 7 ARTICLE XI

### 8 Construction and Severability

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

22 SECTION 2. This act shall become effective November 1, 2020.  
23

24 57-2-10563 SH 01/12/20