

By: Klick

H.B. No. 4116

A BILL TO BE ENTITLED

AN ACT

relating to an interstate compact regulating nurses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 304, Occupations Code, is amended by adding Section 304.0015 to read as follows:

Sec. 304.0015. NURSE LICENSURE COMPACT. The Nurse Licensure Compact is enacted and entered into with all other jurisdictions that legally join in the compact, which 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

1 complex;

2 (5) the current system of duplicative licensure for
3 nurses practicing in multiple states is cumbersome and redundant
4 for both nurses and states; and

5 (6) uniformity of nurse licensure requirements
6 throughout the states promotes public safety and public health
7 benefits.

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

9 (1) facilitate the states' responsibility to protect
10 the public's health and safety;

11 (2) ensure and encourage the cooperation of party
12 states in the areas of nurse licensure and regulation;

13 (3) facilitate the exchange of information between
14 party states in the areas of nurse regulation, investigation, and
15 adverse actions;

16 (4) promote compliance with the laws governing the
17 practice of nursing in each jurisdiction;

18 (5) invest all party states with the authority to hold
19 a nurse accountable for meeting all state practice laws in the state
20 in which the patient is located at the time care is rendered through
21 the mutual recognition of party state licenses;

22 (6) decrease redundancies in the consideration and
23 issuance of nurse licenses; and

24 (7) provide opportunities for interstate practice by
25 nurses who meet uniform licensure requirements.

26 ARTICLE II. DEFINITIONS

27 As used in this compact:

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

10 (b) "Alternative program" means a nondisciplinary
11 monitoring program approved by a licensing board.

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

17 (d) "Current significant investigative information" means:
18 (1) investigative information that a licensing board,
19 after a preliminary inquiry that includes notification and an
20 opportunity for the nurse to respond, if required by state law, has
21 reason to believe is not groundless and, if proven true, would
22 indicate more than a minor infraction; or

23 (2) investigative information that indicates that the
24 nurse represents an immediate threat to public health and safety
25 regardless of whether the nurse has been notified and had an
26 opportunity to respond.

27 (e) "Encumbrance" means a revocation or suspension of, or

1 any limitation on, the full and unrestricted practice of nursing
2 imposed by a licensing board.

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

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

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

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

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

18 (k) "Party state" means any state that has adopted this
19 compact.

20 (l) "Remote state" means a party state, other than the home
21 state.

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

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

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

7 ARTICLE III. GENERAL PROVISIONS AND JURISDICTION

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

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

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

25 (1) meets the home state's qualifications for
26 licensure or renewal of licensure, as well as all other applicable
27 state laws;

1 (2)(i) has graduated or is eligible to graduate from a
2 licensing board-approved RN or LPN/VN prelicensure education
3 program; or

4 (ii) has graduated from a foreign RN or
5 LPN/VN prelicensure education program that (a) has been approved by
6 the authorized accrediting body in the applicable country and (b)
7 has been verified by an independent credentials review agency to be
8 comparable to a licensing board-approved prelicensure education
9 program;

10 (3) has, if a graduate of a foreign prelicensure
11 education program not taught in English or if English is not the
12 individual's native language, successfully passed an English
13 proficiency examination that includes the components of reading,
14 speaking, writing, and listening;

15 (4) has successfully passed an NCLEX-RN or NCLEX-PN
16 Examination or a recognized predecessor, as applicable;

17 (5) is eligible for or holds an active, unencumbered
18 license;

19 (6) has submitted, in connection with an application
20 for initial licensure or licensure by endorsement, fingerprints or
21 other biometric data for the purpose of obtaining criminal history
22 record information from the Federal Bureau of Investigation and the
23 agency responsible for retaining that state's criminal records;

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

27 (8) has not been convicted or found guilty, or has

1 entered into an agreed disposition, of a misdemeanor offense
2 related to the practice of nursing as determined on a case-by-case
3 basis;

4 (9) is not currently enrolled in an alternative
5 program;

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

8 (11) has a valid United States social security number.

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

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

1 provided.

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

10 (g) Any nurse holding a home state multistate license, on
11 the effective date of this compact, may retain and renew the
12 multistate license issued by the nurse's then-current home state,
13 provided that:

14 (1) a nurse, who changes primary state of residence
15 after this compact's effective date, must meet all applicable
16 Article III(c) requirements to obtain a multistate license from the
17 new home state; or

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

25 ARTICLE IV. APPLICATIONS FOR LICENSURE IN A PARTY STATE

26 (a) Upon application for a multistate license, the
27 licensing board in the issuing party state shall ascertain, through

1 the coordinated licensure information system, whether the
2 applicant has ever held, or is the holder of, a license issued by
3 any other state, whether there are any encumbrances on any license
4 or multistate licensure privilege held by the applicant, whether
5 any adverse action has been taken against any license or multistate
6 licensure privilege held by the applicant, and whether the
7 applicant is currently participating in an alternative program.

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

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

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

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

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

26 ARTICLE V. ADDITIONAL AUTHORITIES INVESTED IN PARTY STATE

27 LICENSING BOARDS

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

3 (1) take adverse action against a nurse's multistate
4 licensure privilege to practice within that party state.

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

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

14 (2) issue cease and desist orders or impose an
15 encumbrance on a nurse's authority to practice within that party
16 state.

17 (3) complete any pending investigation of a nurse who
18 changes primary state of residence during the course of such
19 investigation. The licensing board shall also have the authority
20 to take appropriate action(s) and shall promptly report the
21 conclusions of such investigations to the administrator of the
22 coordinated licensure information system. The administrator of the
23 coordinated licensure information system shall promptly notify the
24 new home state of any such actions.

25 (4) issue subpoenas for both hearings and
26 investigations that require the attendance and testimony of a
27 witness, as well as the production of evidence. Subpoenas issued by

1 a licensing board in a party state for the attendance and testimony
2 of witnesses or the production of evidence from another party state
3 shall be enforced in the latter state by any court of competent
4 jurisdiction, according to the practice and procedures of that
5 court applicable to subpoenas issued in proceedings pending before
6 it. The issuing authority shall pay any witness fees, travel
7 expenses, mileage, and other fees required by the service statutes
8 of the state in which the witnesses or evidence are located.

9 (5) obtain and submit, for each nurse licensure
10 applicant, fingerprint or other biometric-based information to the
11 Federal Bureau of Investigation for criminal background checks,
12 receive the results of the Federal Bureau of Investigation record
13 search on criminal background checks, and use the results in making
14 licensure decisions.

15 (6) if otherwise permitted by state law, recover from
16 the affected nurse the costs of investigations and disposition of
17 cases resulting from any adverse action taken against that nurse.

18 (7) take adverse action based on the factual findings
19 of the remote state, provided that the licensing board follows its
20 own procedures for taking such adverse action.

21 (b) If adverse action is taken by the home state against a
22 nurse's multistate license, the nurse's multistate licensure
23 privilege to practice in all other party states shall be
24 deactivated until all encumbrances have been removed from the
25 multistate license. All home state disciplinary orders that impose
26 adverse action against a nurse's multistate license shall include a
27 statement that the nurse's multistate licensure privilege is

1 deactivated in all party states during the pendency of the order.

2 (c) Nothing in this compact shall override a party state's
3 decision that participation in an alternative program may be used
4 in lieu of adverse action. The home state licensing board shall
5 deactivate the multistate licensure privilege under the multistate
6 license of any nurse for the duration of the nurse's participation
7 in an alternative program.

8 ARTICLE VI. COORDINATED LICENSURE INFORMATION SYSTEM AND EXCHANGE
9 OF INFORMATION

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

16 (b) The commission, in consultation with the administrator
17 of the coordinated licensure information system, shall formulate
18 necessary and proper procedures for the identification,
19 collection, and exchange of information under this compact.

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

27 (d) Current significant investigative information and

1 participation in nonpublic or confidential alternative programs
2 shall be transmitted through the coordinated licensure information
3 system only to party state licensing boards.

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

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

16 (g) Any information contributed to the coordinated
17 licensure information system that is subsequently required to be
18 expunged by the laws of the party state contributing that
19 information shall also be expunged from the coordinated licensure
20 information system.

21 (h) The compact administrator of each party state shall
22 furnish a uniform data set to the compact administrator of each
23 other party state, which shall include, at a minimum:

24 (1) identifying information;
25 (2) licensure data;
26 (3) information related to alternative program
27 participation; and

1 (4) other information that may facilitate the
2 administration of this compact, as determined by commission rules.

3 (i) The compact administrator of a party state shall provide
4 all investigative documents and information requested by another
5 party state.

6 ARTICLE VII. ESTABLISHMENT OF INTERSTATE COMMISSION OF NURSE

7 LICENSURE COMPACT ADMINISTRATORS

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

11 (1) The commission is an instrumentality of the party
12 states.

13 (2) Venue is proper and judicial proceedings by or
14 against the commission shall be brought solely and exclusively in a
15 court of competent jurisdiction where the principal office of the
16 commission is located. The commission may waive venue and
17 jurisdictional defenses to the extent it adopts or consents to
18 participate in alternative dispute resolution proceedings.

19 (3) Nothing in this compact shall be construed to be a
20 waiver of sovereign immunity.

21 (b) Membership, Voting, and Meetings

22 (1) Each party state shall have and be limited to one
23 administrator. The head of the state licensing board or a designee
24 shall be the administrator of this compact for each party state.
25 Any administrator may be removed or suspended from office as
26 provided by the law of the state from which the administrator is
27 appointed. Any vacancy occurring in the commission shall be filled

1 in accordance with the laws of the party state in which the vacancy
2 exists.

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

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

13 (4) All meetings shall be open to the public, and
14 public notice of meetings shall be given in the same manner as
15 required under the rulemaking provisions in Article VIII.

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

18 (i) noncompliance of a party state with its
19 obligations under this compact;

20 (ii) the employment, compensation, discipline,
21 or other personnel matters, practices, or procedures related to
22 specific employees or other matters related to the commission's
23 internal personnel practices and procedures;

24 (iii) current, threatened, or reasonably
25 anticipated litigation;

26 (iv) negotiation of contracts for the purchase or
27 sale of goods, services, or real estate;

1 (v) accusing any person of a crime or formally
2 censuring any person;

3 (vi) disclosure of trade secrets or commercial or
4 financial information that is privileged or confidential;

5 (vii) disclosure of information of a personal
6 nature where disclosure would constitute a clearly unwarranted
7 invasion of personal privacy;

8 (viii) disclosure of investigatory records
9 compiled for law enforcement purposes;

10 (ix) disclosure of information related to any
11 reports prepared by or on behalf of the commission for the purpose
12 of investigation of compliance with this compact; or

13 (x) matters specifically exempted from
14 disclosure by federal or state statute.

15 (6) If a meeting or portion of a meeting is closed
16 pursuant to this provision, the commission's legal counsel or
17 designee shall certify that the meeting may be closed and shall
18 reference each relevant exempting provision. The commission shall
19 keep minutes that fully and clearly describe all matters discussed
20 in a meeting and shall provide a full and accurate summary of
21 actions taken, and the reasons therefor, including a description of
22 the views expressed. All documents considered in connection with
23 an action shall be identified in such minutes. All minutes and
24 documents of a closed meeting shall remain under seal, subject to
25 release by a majority vote of the commission or order of a court of
26 competent jurisdiction.

27 (c) The commission shall, by a majority vote of the

1 administrators, prescribe bylaws or rules to govern its conduct as
2 may be necessary or appropriate to carry out the purposes and
3 exercise the powers of this compact, including but not limited to:

4 (1) establishing the fiscal year of the commission;

5 (2) providing reasonable standards and procedures:

6 (i) for the establishment and meeting of other
7 committees; and

8 (ii) governing any general or specific
9 delegation of any authority or function of the commission;

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

21 (4) establishing the titles, duties and authority, and
22 reasonable procedures for the election of the officers of the
23 commission;

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

1 personnel policies and programs of the commission; and

2 (6) providing a mechanism for winding up the
3 operations of the commission and the equitable disposition of any
4 surplus funds that may exist after the termination of this compact
5 after the payment or reserving of all of its debts and obligations.

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

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

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

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

14 (1) to promulgate uniform rules to facilitate and
15 coordinate implementation and administration of this compact. The
16 rules shall have the force and effect of law and shall be binding in
17 all party states;

18 (2) to bring and prosecute legal proceedings or
19 actions in the name of the commission, provided that the standing of
20 any licensing board to sue or be sued under applicable law shall not
21 be affected;

22 (3) to purchase and maintain insurance and bonds;

23 (4) to borrow, accept, or contract for services of
24 personnel, including, but not limited to, employees of a party
25 state or nonprofit organizations;

26 (5) to cooperate with other organizations that
27 administer state compacts related to the regulation of nursing,

1 including, but not limited to, sharing administrative or staff
2 expenses, office space, or other resources;

3 (6) to hire employees, elect or appoint officers, fix
4 compensation, define duties, grant such individuals appropriate
5 authority to carry out the purposes of this compact, and to
6 establish the commission's personnel policies and programs
7 relating to conflicts of interest, qualifications of personnel, and
8 other related personnel matters;

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

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

18 (9) to sell, convey, mortgage, pledge, lease,
19 exchange, abandon, or otherwise dispose of any property, whether
20 real, personal, or mixed;

21 (10) to establish a budget and make expenditures;

22 (11) to borrow money;

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

27 (13) to provide and receive information from, and to

1 cooperate with, law enforcement agencies;

2 (14) to adopt and use an official seal; and

3 (15) to perform such other functions as may be
4 necessary or appropriate to achieve the purposes of this compact
5 consistent with the state regulation of nurse licensure and
6 practice.

7 (h) Financing of the Commission

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

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

17 (3) The commission shall not incur an obligation of
18 any kind prior to securing the funds adequate to meet the same; nor
19 shall the commission pledge the credit of any of the party states,
20 except by and with the authority of such party state.

21 (4) The commission shall keep accurate accounts of all
22 receipts and disbursements. The receipts and disbursements of the
23 commission shall be subject to the audit and accounting procedures
24 established under its bylaws. However, all receipts and
25 disbursements of funds handled by the commission shall be audited
26 yearly by a certified or licensed public accountant, and the report
27 of the audit shall be included in and become part of the annual

1 report of the commission.

2 (i) Qualified Immunity, Defense, and Indemnification

3 (1) The compact administrators, officers, executive
4 directors, employees, and representatives of the commission shall
5 be immune from suit and liability, either personally or in their
6 official capacity, for any claim for damage to or loss of property,
7 or personal injury or other civil liability caused by or arising out
8 of any actual or alleged act, error, or omission that occurred, or
9 that the person against whom the claim is made had a reasonable
10 basis for believing occurred, within the scope of commission
11 employment, duties, or responsibilities; provided that nothing in
12 this subdivision shall be construed to protect any such person from
13 suit or liability for any damages, loss, injury, or liability
14 caused by the intentional, wilful, or wanton misconduct of that
15 person.

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

(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, wilful, 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.

1 (d) The notice of proposed rulemaking shall include:

2 (1) the proposed time, date, and location of the
3 meeting in which the rule will be considered and voted upon;

4 (2) the text of the proposed rule or amendment, and the
5 reason for the proposed rule;

6 (3) a request for comments on the proposed rule from
7 any interested person; and

8 (4) the manner in which interested persons may submit
9 notice to the commission of their intention to attend the public
10 hearing and any written comments.

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

14 (f) The commission shall grant an opportunity for a public
15 hearing before it adopts a rule or amendment.

16 (g) The commission shall publish the place, time, and date
17 of the scheduled public hearing.

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

22 (2) Nothing in this section shall be construed as
23 requiring a separate hearing on each rule. Rules may be grouped for
24 the convenience of the commission at hearings required by this
25 section.

26 (h) If no one appears at the public hearing, the commission
27 may proceed with promulgation of the proposed rule.

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

18 (1) meet an imminent threat to public health, safety,
19 or welfare;

20 (2) prevent a loss of commission or party state funds;
21 or

22 (3) meet a deadline for the promulgation of an
23 administrative rule that is required by federal law or rule.

24 (l) The commission may direct revisions to a previously
25 adopted rule or amendment for purposes of correcting typographical
26 errors, errors in format, errors in consistency, or grammatical
27 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

1 state and other party states of the nature of the default, the
2 proposed means of curing the default, or any other action to be
3 taken by the commission; and

4 (ii) provide remedial training and specific
5 technical assistance regarding the default.

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

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

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

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

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

6 (c) Dispute Resolution

7 (1) Upon request by a party state, the commission
8 shall attempt to resolve disputes related to the compact that arise
9 among party states and between party and nonparty states.

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

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

15 (i) the party states may submit the issues in
16 dispute to an arbitration panel, which will be comprised of
17 individuals appointed by the compact administrator in each of the
18 affected party states and an individual mutually agreed upon by the
19 compact administrators of all the party states involved in the
20 dispute; and

21 (ii) the decision of a majority of the
22 arbitrators shall be final and binding.

23 (d) Enforcement

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

26 (2) By majority vote, the commission may initiate
27 legal action in the U.S. District Court for the District of Columbia

1 or in the federal district in which the commission has its principal
2 offices against a party state that is in default to enforce
3 compliance with the provisions of this compact and its promulgated
4 rules and bylaws. The relief sought may include both injunctive
5 relief and damages. In the event judicial enforcement is
6 necessary, the prevailing party shall be awarded all costs of such
7 litigation, including reasonable attorneys' fees.

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

11 ARTICLE X. EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENTS

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

20 (b) Each party state to this compact shall continue to
21 recognize a nurse's multistate licensure privilege to practice in
22 that party state issued under the prior compact until the party
23 state has withdrawn from the prior compact.

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

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

6 (e) Nothing contained in this compact shall be construed to
7 invalidate or prevent any nurse licensure agreement or other
8 cooperative arrangement between a party state and a nonparty state
9 that is made in accordance with the other provisions of this
10 compact.

11 (f) This compact may be amended by the party states. No
12 amendment to this compact shall become effective and binding upon
13 the party states unless and until it is enacted into the laws of all
14 party states.

15 (g) Representatives of nonparty states to this compact
16 shall be invited to participate in the activities of the
17 commission, on a nonvoting basis, prior to the adoption of this
18 compact by all states.

19 ARTICLE XI. CONSTRUCTION AND SEVERABILITY

20 This compact shall be liberally construed so as to effectuate
21 the purposes thereof. The provisions of this compact shall be
22 severable, and if any phrase, clause, sentence, or provision of
23 this compact is declared to be contrary to the constitution of any
24 party state or the United States, or if the applicability thereof to
25 any government, agency, person, or circumstance is held invalid,
26 the validity of the remainder of this compact and the applicability
27 thereof to any government, agency, person, or circumstance shall

1 not be affected thereby. If this compact shall be held to be
2 contrary to the constitution of any party state, this compact shall
3 remain in full force and effect as to the remaining party states and
4 in full force and effect as to the party state affected as to all
5 severable matters.

6 SECTION 2. Chapter 304, Occupations Code, is amended by
7 adding Section 304.0025 to read as follows:

8 Sec. 304.0025. RULES ADOPTED UNDER COMPACT. The Interstate
9 Commission of Nurse Licensure Compact Administrators established
10 under the Nurse Licensure Compact under Section 304.0015 may not
11 adopt rules that alter the requirements or scope of practice of a
12 license issued under Chapter 301. Any rule adopted by the
13 Interstate Commission of Nurse Licensure Compact Administrators
14 that purports to alter the requirements or scope of practice of a
15 license issued under Chapter 301 is not enforceable.

16 SECTION 3. Section 304.006(a), Occupations Code, is amended
17 to read as follows:

18 (a) On request and payment of a reasonable fee, the Texas
19 Board of Nursing shall provide a registered or vocational nurse
20 licensed by this state with a copy of information regarding the
21 nurse maintained by the coordinated licensure information system
22 under Article VI [7] of the Nurse Licensure Compact.

23 SECTION 4. Section 304.008(a), Occupations Code, is amended
24 to read as follows:

25 (a) In reporting information to the coordinated licensure
26 information system under Article VI [7] of the Nurse Licensure
27 Compact, the Texas Board of Nursing may disclose personally

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1 identifiable information about the nurse, including the nurse's
2 social security number.

3 SECTION 5. Effective December 31, 2018, Sections 304.001
4 and 304.009, Occupations Code, are repealed.

5 SECTION 6. This Act takes effect September 1, 2017.