

First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

HOUSE ENROLLED ACT No. 1344

AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 25-23-1-7, AS AMENDED BY P.L.129-2018, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 7. (a) The board shall do the following:

- (1) Adopt under IC 4-22-2 rules necessary to enable it to carry into effect this chapter.
- (2) Prescribe standards and approve curricula for nursing education programs preparing persons for licensure under this chapter.
- (3) Provide for surveys of such programs at such times as it considers necessary.
- (4) Accredite such programs as meet the requirements of this chapter and of the board.
- (5) Deny or withdraw accreditation from nursing education programs for failure to meet prescribed curricula or other standards.
- (6) Examine, license, and renew the license of qualified applicants.
- (7) Issue subpoenas, compel the attendance of witnesses, and administer oaths to persons giving testimony at hearings.
- (8) Cause the prosecution of all persons violating this chapter and have power to incur necessary expenses for these prosecutions.

HEA 1344 — Concur



- (9) Adopt rules under IC 4-22-2 that do the following:
- (A) Prescribe standards for the competent practice of registered, practical, and advanced practice registered nursing.
 - (B) Establish with the approval of the medical licensing board created by IC 25-22.5-2-1 requirements that advanced practice registered nurses must meet to be granted authority to prescribe legend drugs and to retain that authority.
 - (C) Establish, with the approval of the medical licensing board created by IC 25-22.5-2-1, requirements for the renewal of a practice agreement under section 19.4 of this chapter, which shall expire on October 31 in each odd-numbered year.
- (10) Keep a record of all its proceedings.
- (11) Collect and distribute annually demographic information on the number and type of registered nurses and licensed practical nurses employed in Indiana.
- (12) Adopt rules and administer the interstate nurse licensure compact under IC 25-42.**
- (b) The board may do the following:
- (1) Create ad hoc subcommittees representing the various nursing specialties and interests of the profession of nursing. Persons appointed to a subcommittee serve for terms as determined by the board.
 - (2) Utilize the appropriate subcommittees so as to assist the board with its responsibilities. The assistance provided by the subcommittees may include the following:
 - (A) Recommendation of rules necessary to carry out the duties of the board.
 - (B) Recommendations concerning educational programs and requirements.
 - (C) Recommendations regarding examinations and licensure of applicants.
 - (3) Appoint nurses to serve on each of the ad hoc subcommittees.
 - ~~(4) Withdraw from the interstate nurse licensure compact under IC 25-23.2 (repealed).~~
- (c) Nurses appointed under subsection (b) must:
- (1) be committed to advancing and safeguarding the nursing profession as a whole; and
 - (2) represent nurses who practice in the field directly affected by a subcommittee's actions.

SECTION 2. IC 25-23-1-11, AS AMENDED BY P.L.134-2008, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 11. (a) Any person who applies to the board for a



license to practice as a registered nurse must:

- (1) not have:
 - (A) been convicted of a crime that has a direct bearing on the person's ability to practice competently; or
 - (B) committed an act that would constitute a ground for a disciplinary sanction under IC 25-1-9;
- (2) have completed:
 - (A) the prescribed curriculum and met the graduation requirements of a state accredited program of registered nursing that only accepts students who have a high school diploma or its equivalent as determined by the board; or
 - (B) the prescribed curriculum and graduation requirements of a nursing education program in a foreign country that is substantially equivalent to a board approved program as determined by the board. The board may by rule adopted under IC 4-22-2 require an applicant under this subsection to successfully complete an examination approved by the board to measure the applicant's qualifications and background in the practice of nursing and proficiency in the English language; and
- (3) be physically and mentally capable of and professionally competent to safely engage in the practice of nursing as determined by the board.

The board may not require a person to have a baccalaureate degree in nursing as a prerequisite for licensure.

(b) The applicant must pass an examination in such subjects as the board may determine.

(c) The board may issue by endorsement a license to practice as a registered nurse to an applicant who has been licensed as a registered nurse, by examination, under the laws of another state if the applicant presents proof satisfactory to the board that, at the time that the applicant applies for an Indiana license by endorsement, the applicant holds a current license in another state and possesses credentials and qualifications that are substantially equivalent to requirements in Indiana for licensure by examination. The board may specify by rule what constitutes substantial equivalence under this subsection.

(d) The board may issue by endorsement a license to practice as a registered nurse to an applicant who:

- (1) has completed the English version of the:
 - (A) Canadian Nurse Association Testing Service Examination (CNAT); or
 - (B) Canadian Registered Nurse Examination (CRNE);



- (2) achieved the passing score required on the examination at the time the examination was taken;
- (3) is currently licensed in a Canadian province or in another state; and
- (4) meets the other requirements under this section.

(e) Each applicant for examination and registration to practice as a registered nurse shall pay:

- (1) a fee set by the board; **and**
- (2) **if the applicant is applying for a multistate license (as defined in IC 25-42-1-11) under IC 25-42 (Nurse Licensure Compact), a fee of twenty-five dollars (\$25) in addition to the fee under subdivision (1);**

a part of which must be used for the rehabilitation of impaired registered nurses and impaired licensed practical nurses. Payment of the fee or fees shall be made by the applicant prior to the date of examination. The lesser of the following amounts from fees collected under this subsection shall be deposited in the impaired nurses account of the state general fund established by section 34 of this chapter:

- (1) Twenty-five percent (25%) of the license application fee per license applied for under this section.
- (2) The cost per license to operate the impaired nurses program, as determined by the Indiana professional licensing agency.

(f) Any person who holds a license to practice as a registered nurse in:

- (1) Indiana; or
- (2) a party state (as defined in IC 25-23.3-2-11);

may use the title "Registered Nurse" and the abbreviation "R.N.". No other person shall practice or advertise as or assume the title of registered nurse or use the abbreviation of "R.N." or any other words, letters, signs, or figures to indicate that the person using same is a registered nurse.

SECTION 3. IC 25-23-1-12, AS AMENDED BY P.L.134-2008, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 12. (a) A person who applies to the board for a license to practice as a licensed practical nurse must:

- (1) not have been convicted of:
 - (A) an act which would constitute a ground for disciplinary sanction under IC 25-1-9; or
 - (B) a crime that has a direct bearing on the person's ability to practice competently;
- (2) have completed:
 - (A) the prescribed curriculum and met the graduation



requirements of a state accredited program of practical nursing that only accepts students who have a high school diploma or its equivalent, as determined by the board; or

(B) the prescribed curriculum and graduation requirements of a nursing education program in a foreign country that is substantially equivalent to a board approved program as determined by the board. The board may by rule adopted under IC 4-22-2 require an applicant under this subsection to successfully complete an examination approved by the board to measure the applicant's qualifications and background in the practice of nursing and proficiency in the English language; and

(3) be physically and mentally capable of, and professionally competent to, safely engage in the practice of practical nursing as determined by the board.

(b) The applicant must pass an examination in such subjects as the board may determine.

(c) The board may issue by endorsement a license to practice as a licensed practical nurse to an applicant who has been licensed as a licensed practical nurse, by examination, under the laws of another state if the applicant presents proof satisfactory to the board that, at the time of application for an Indiana license by endorsement, the applicant possesses credentials and qualifications that are substantially equivalent to requirements in Indiana for licensure by examination. The board may specify by rule what shall constitute substantial equivalence under this subsection.

(d) Each applicant for examination and registration to practice as a practical nurse shall pay:

(1) a fee set by the board; **and**

(2) if the applicant is applying for a multistate license (as defined in IC 25-42-1-11) under IC 25-42 (Nurse Licensure Compact), a fee of twenty-five dollars (\$25) in addition to the fee under subdivision (1);

a part of which must be used for the rehabilitation of impaired registered nurses and impaired licensed practical nurses. Payment of the fees shall be made by the applicant before the date of examination. The lesser of the following amounts from fees collected under this subsection shall be deposited in the impaired nurses account of the state general fund established by section 34 of this chapter:

(1) Twenty-five percent (25%) of the license application fee per license applied for under this section.

(2) The cost per license to operate the impaired nurses program,



as determined by the Indiana professional licensing agency.

(e) Any person who holds a license to practice as a licensed practical nurse in:

(1) Indiana; or

(2) a party state (as defined in IC 25-23.3-2-11);

may use the title "Licensed Practical Nurse" and the abbreviation "L.P.N.". No other person shall practice or advertise as or assume the title of licensed practical nurse or use the abbreviation of "L.P.N." or any other words, letters, signs, or figures to indicate that the person using them is a licensed practical nurse.

SECTION 4. IC 25-23-1-16.1, AS AMENDED BY P.L.177-2015, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 16.1. (a) Subject to IC 25-1-2-6(e), a license to practice as a registered nurse expires on October 31 in each odd-numbered year. Failure to renew the license on or before the expiration date will automatically render the license invalid without any action by the board.

(b) Subject to IC 25-1-2-6(e), a license to practice as a licensed practical nurse expires on October 31 in each even-numbered year. Failure to renew the license on or before the expiration date will automatically render the license invalid without any action by the board.

(c) **The procedures and fee for renewal shall be set by the board. If the license being renewed is a multistate license (as defined in IC 25-42-1-11) under IC 25-42 (Nurse Licensure Compact), a fee of twenty-five dollars (\$25) must be paid in addition to the fee for renewal set by the board.**

(d) At the time of license renewal, each registered nurse and each licensed practical nurse shall pay a renewal fee, a portion of which shall be for the rehabilitation of impaired registered nurses and impaired licensed practical nurses. The lesser of the following amounts from fees collected under this subsection shall be deposited in the impaired nurses account of the state general fund established by section 34 of this chapter:

(1) Twenty-five percent (25%) of the license renewal fee per license renewed under this section.

(2) The cost per license to operate the impaired nurses program, as determined by the Indiana professional licensing agency.

SECTION 5. IC 25-42 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]:

ARTICLE 42. INTERSTATE NURSE LICENSURE



COMPACT

Chapter 1. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Adverse action" means any administrative, civil, equitable, or criminal action permitted by a state's laws that is imposed by a licensing board or other authority against a nurse, including any of the following actions against the nurse's license or multistate licensure privilege:

- (1) Revocation.
- (2) Suspension.
- (3) Probation.
- (4) Monitoring of the nurse.
- (5) Limitation on the nurse's practice.
- (6) Another encumbrance on licensure affecting the nurse's authorization to practice, including a cease and desist order.

Sec. 3. "Alternative program" means a nondisciplinary monitoring program approved by a licensing board.

Sec. 4. "Commission" refers to the interstate commission of nurse licensure compact administrators established by IC 25-42-7-1.

Sec. 5. "Coordinated licensure information system" means:

- (1) an integrated process for collecting, storing, and sharing information concerning nurse licensure and enforcement activities related to nurse licensure laws; and
- (2) a system that is administered by a nonprofit organization composed of and controlled by licensing boards.

Sec. 6. "Current significant investigative information" means either of the following:

- (1) Investigative information that, following a preliminary inquiry that includes notice to the nurse and an opportunity for the nurse to respond as required by state law:
 - (A) a licensing board has reason to believe is not groundless; and
 - (B) if proved true, would indicate more than a minor infraction.
- (2) Investigative information that, regardless of whether the nurse has received notice and has had an opportunity to respond, indicates that the nurse represents an immediate threat to public health and safety.

Sec. 7. "Encumbrance" means:

- (1) a revocation or suspension of; or



(2) a limitation on;
the full and unrestricted practice of nursing imposed by a licensing board.

Sec. 8. "Home state" means the party state that is a nurse's primary state of residence.

Sec. 9. "Licensed nurse" means a:

- (1) registered nurse;
- (2) licensed practical nurse; or
- (3) licensed vocational nurse;

as those terms are defined by each party state's practice laws.

Sec. 10. "Licensing board" means a party state's regulatory body responsible for issuing nurse licenses.

Sec. 11. "Multistate license" means a license to practice as a licensed nurse that:

- (1) is issued by a home state licensing board; and
- (2) authorizes the nurse to practice in all party states under a multistate licensure privilege.

Sec. 12. "Multistate licensure privilege" means a legal authorization associated with a multistate license permitting the practice of nursing as a licensed nurse in a remote state.

Sec. 13. "NCLEX" refers to the National Council Licensure Examination.

Sec. 14. "Nurse license" refers to any of the following issued by a state's regulatory body responsible for issuing nurse licenses:

- (1) A registered nurse license.
- (2) A licensed practical nurse license.
- (3) A licensed vocational nurse license.

Sec. 15. "Party state" means a state that has adopted this compact.

Sec. 16. "Remote state" means a party state other than the home state.

Sec. 17. "Single state license" means a nurse license issued by a party state that:

- (1) authorizes practice only within the issuing state; and
- (2) does not include a multistate licensure privilege to practice in another party state.

Sec. 18. "State" means a state, territory, or possession of the United States, and the District of Columbia.

Sec. 19. "State board of nursing" refers to the Indiana state board of nursing established by IC 25-23-1-2.

Sec. 20. (a) "State practice laws" means a party state's laws, rules, and regulations that:



- (1) govern the practice of nursing;**
- (2) define the scope of nursing practice; and**
- (3) create the methods and grounds for imposing discipline on licensed nurses.**

(b) "State practice laws" does not include requirements necessary to obtain and retain a license, other than qualifications or requirements of the home state.

Chapter 2. Findings and Purpose

Sec. 1. The nurse licensure compact is enacted and entered into with all other jurisdictions that legally join the compact, which is, in form, substantially the same as this article.

Sec. 2. The party states find the following:

- (1) The health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurse licensure laws.**
- (2) Violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public.**
- (3) The expanded mobility of nurses and the use of advanced communication technologies as part of our nation's health care delivery system require greater coordination and cooperation among states in the areas of nurse licensure and regulation.**
- (4) New practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex.**
- (5) The current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant for nurses and states.**
- (6) Uniformity of nurse licensure requirements throughout the states promotes public safety and public health benefits.**

Sec. 3. The general purposes of this compact are to do the following:

- (1) Facilitate the states' responsibility to protect the public's health and safety.**
- (2) Ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation.**
- (3) Facilitate the exchange of information between party states in the areas of nurse regulation, investigation, and adverse actions.**
- (4) Promote compliance with laws governing the practice of nursing in each jurisdiction.**
- (5) Invest all party states with the authority to hold a nurse**



accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses.

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

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

Chapter 3. General Provisions and Jurisdiction

Sec. 1. A multistate license issued by a home state to a resident in that state will be recognized by each party state as authorizing the resident to practice as a nurse under a multistate licensure privilege in each party state.

Sec. 2. A state must implement procedures for considering the criminal history records of applicants for initial multistate license or licensure by endorsement, including the submission of fingerprints or other biometric based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records.

Sec. 3. Each party state shall require the following for an applicant to obtain or retain a multistate license in the home state:

(1) The applicant meets the home state's qualifications for licensure or renewal of licensure, as well as all other applicable state laws.

(2) The applicant has either:

(A) graduated or is eligible to graduate from a licensing board approved licensed nurse prelicensure education program; or

(B) graduated from a foreign licensed nurse prelicensure education program that has been:

(i) approved by the authorized accrediting body in the applicable country; and

(ii) verified by an independent credentials review agency to be comparable to a licensing board approved prelicensure education program.

(3) If:

(A) English is not the applicant's native language; or

(B) the applicant graduated from a foreign prelicensure education program that was not taught in English;

the applicant has successfully passed an English proficiency examination that includes the components of reading, speaking, writing, and listening.



- (4) The applicant has successfully passed an NCLEX for registered nurses or NCLEX for practical nurses or recognized predecessor examination, as applicable.**
- (5) The applicant is eligible for or holds an active license without encumbrance.**
- (6) The applicant has submitted, in connection with an application for initial licensure or licensure by endorsement, fingerprints or other biometric data for the purpose of obtaining criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records.**
- (7) The applicant has:**
 - (A) not been convicted or found guilty; or**
 - (B) entered into an agreed disposition;****of a felony offense under applicable state or federal criminal law.**
- (8) The applicant has:**
 - (A) not been convicted or found guilty; or**
 - (B) entered into an agreed disposition;****of a misdemeanor offense related to the practice of nursing, as determined on a case by case basis.**
- (9) The applicant is not currently enrolled in an alternative program.**
- (10) The applicant is subject to self-disclosure requirements regarding current participation in an alternative program.**
- (11) The applicant has a valid Social Security number.**

Sec. 4. (a) All party states are authorized, in accordance with existing state due process law, to take adverse action against a nurse's multistate licensure privilege.

- (b) If a party state takes an adverse action under subsection (a):**
 - (1) the party state shall promptly notify the administrator of the coordinated licensure information system; and**
 - (2) the administrator of the coordinated licensure information system shall promptly notify the home state of any adverse actions taken by remote states.**

Sec. 5. (a) A nurse practicing in a party state shall comply with the state practice laws of the state in which the client is located at the time service is provided.

- (b) The practice of nursing is not limited to patient care, but includes all nursing practice as defined by the state practice laws of the party state in which the client is located.**
- (c) The practice of nursing in a party state under a multistate**



licensure privilege subjects a nurse to the jurisdiction of the licensing board, the courts, and the laws of the party state in which the client is located at the time service is provided.

Sec. 6. (a) Individuals not residing in a party state may apply for a party state's single state license as provided under the laws of each party state. However, a single state license granted to the individual will not be recognized as granting the privilege to practice nursing in any other party state.

(b) This compact does not affect the requirements established by a party state for the issuance of a single state license.

Sec. 7. A nurse who holds a home state multistate license on the effective date of this compact may retain and renew the multistate license issued by the nurse's current home state. However, the following apply:

(1) A nurse who changes primary state of residence after the effective date of this compact shall meet all applicable requirements of section 3 of this chapter to obtain a multistate license from a new home state.

(2) If the nurse fails to satisfy the multistate licensure requirements of section 3 of this chapter due to a disqualifying event occurring after the effective date of this compact:

(A) the nurse is ineligible to retain or renew a multistate license; and

(B) the nurse's multistate license must be revoked or deactivated in accordance with applicable rules adopted by the commission.

Chapter 4. Application for Nurse Licensure in a Party State

Sec. 1. Upon receipt of an application for a multistate license, the licensing board in the issuing party state shall ascertain, through the coordinated licensure information system, whether:

(1) the applicant has ever held, or is the holder of, a license issued by any other state;

(2) there are any encumbrances on any license or multistate licensure privilege held by the applicant;

(3) any adverse action has been taken against any license or multistate licensure privilege held by the applicant; and

(4) the applicant is currently participating in an alternative program.

Sec. 2. A nurse may hold a multistate license, issued by the home state, in only one (1) party state at a time.

Sec. 3. If a nurse changes primary state of residence by moving



between two (2) party states, the nurse must apply for licensure in the new home state, and the multistate license issued by the prior home state will be deactivated in accordance with applicable rules adopted by the commission, including the following:

- (1) The nurse may apply for licensure in advance of a change in primary state of residence.
- (2) A multistate license must not be issued by the new home state until the nurse:
 - (A) provides satisfactory evidence of a change in primary state of residence to the new home state; and
 - (B) satisfies all applicable requirements to obtain a multistate license from the new home state.

Sec. 4. If a nurse changes primary state of residence by moving from a party state to a nonparty state, the multistate license issued by the prior home state will convert to a single state license, valid only in the former home state.

Chapter 5. Additional Authorities Invested in Party State Licensing Boards

Sec. 1. (a) In addition to the other powers conferred by state law, a licensing board may do any of the following:

- (1) Take adverse action against a nurse's multistate licensure privilege to practice within that party state, as follows:
 - (A) Only the home state may take adverse action against a nurse's license issued by the home state.
 - (B) For purposes of taking adverse action, the home state licensing board shall:
 - (i) give the same priority and effect to reported conduct received from a remote state as it would if the conduct had occurred within the home state; and
 - (ii) apply the home state's laws to determine appropriate action.
- (2) Issue cease and desist orders or impose other encumbrances on a nurse's authority to practice within that party state.
- (3) With respect to pending investigations of a nurse who changes primary state of residence during the course of the investigations, the following:
 - (A) Complete the investigations.
 - (B) Take appropriate action.
- (4) Issue subpoenas for hearings and investigations that require the attendance and testimony of witnesses and for the production of evidence.



(5) For each nurse licensure applicant:

(A) obtain and submit fingerprints or other biometric based information to the Federal Bureau of Investigation for criminal background checks;

(B) receive the results of the Federal Bureau of Investigation record search on criminal background checks; and

(C) use the results in making licensure decisions.

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

(7) Take adverse action based on the factual findings of a remote state, according to the licensing board's own procedures for the adverse action.

(b) With respect to investigations described in subsection (a)(3):

(1) the licensing board shall promptly report the conclusions of the investigations to the administrator of the coordinated licensure information system; and

(2) the administrator of the coordinated licensure information system shall promptly notify the new home state of any actions taken under subsection (a)(3).

(c) Subpoenas issued by a licensing board in a party state for the attendance and testimony of witnesses or the production of evidence from another party state as described in subsection (a)(4) must be enforced in the other party state:

(1) by a court of competent jurisdiction; and

(2) according to the practice and procedure of the court applicable to subpoenas issued in proceedings pending before the court.

The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state in which the witnesses or evidence are located.

Sec. 2. (a) If adverse action is taken by the home state against a nurse's multistate license, the nurse's multistate licensure privilege to practice in all other party states must be deactivated until all encumbrances have been removed from the multistate license.

(b) All home state disciplinary orders that impose adverse action against a nurse's multistate license must include a statement that the nurse's multistate licensure privilege is deactivated in all party states during the pendency of the order.

Sec. 3. (a) This compact does not override a party state's



decision that participation in an alternative program may be used in lieu of adverse action.

(b) In the case of a party state decision described in subsection (a), the home state licensing board shall deactivate the multistate licensure privilege under the multistate license of the nurse for the duration of the nurse's participation in the alternative program.

Chapter 6. Coordinated Licensure Information System and Exchange of Information

Sec. 1. (a) All party states shall participate in a coordinated licensure information system of all licensed nurses.

(b) The coordinated licensure information system must include information submitted by party states:

- (1) concerning the licensure and disciplinary history of each nurse; and
- (2) to assist in the coordination of nurse licensure and enforcement.

Sec. 2. The commission, in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection, and exchange of information under this compact.

Sec. 3. All licensing boards shall promptly report to the coordinated licensure information system any:

- (1) adverse action;
- (2) current significant investigative information;
- (3) denials of applications and reasons for the denials; and
- (4) nurse participation in alternative programs known to the licensing board, regardless of whether the participation is considered to be nonpublic or confidential under state law.

Sec. 4. Current significant investigative information and participation in nonpublic or confidential alternative programs must be transmitted through the coordinated licensure information system only to party state licensing boards.

Sec. 5. Notwithstanding any other law, all party state licensing boards contributing information to the coordinated licensure information system may designate information that may not be shared with nonparty states or disclosed to other entities or individuals without the express permission of the contributing state.

Sec. 6. Any personally identifiable information obtained from the coordinated licensure information system by a party state licensing board must not be shared with nonparty states or disclosed to other entities or individuals except to the extent



permitted by the laws of the party state contributing the information.

Sec. 7. Information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information must also be expunged from the coordinated licensure information system.

Sec. 8. The compact administrator of each party state shall furnish a uniform data set to the compact administrator of each other party state, which must include, at a minimum, the following:

- (1) Identifying information.
- (2) Licensure data.
- (3) Information related to alternative program participation.
- (4) Other information that may facilitate the administration of this compact, as determined by commission rules.

Sec. 9. The compact administrator of a party state shall provide all investigative documents and information requested by another party state.

Chapter 7. Establishment of the Interstate Commission of Nurse Licensure Compact Administrators

Sec. 1. (a) The party states create and establish a joint public entity known as the interstate commission of nurse licensure compact administrators.

(b) The commission is an instrumentality of the party states.

(c) Venue is proper, and judicial proceedings by or against the commission must be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located.

(d) The commission may waive venue and jurisdictional defenses to the extent the commission adopts or consents to participate in alternative dispute resolution proceedings.

Sec. 2. This compact does not waive sovereign immunity.

Sec. 3. (a) Each party state has and is limited to one (1) administrator. The head of the state licensing board of each party state, or designee, is the administrator of this compact for each party state. An administrator may be removed or suspended from office as provided by the law of the state from which the administrator is appointed.

(b) A vacancy occurring in the commission must be filled in accordance with the laws of the party state in which the vacancy exists.

(c) Each administrator is entitled to one (1) vote with regard to



the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission. An administrator shall vote in person or by other means provided in the bylaws. The bylaws may provide for an administrator's participation in meetings by telephone or other means of communication.

Sec. 4. The commission shall meet at least one (1) time during each calendar year. Additional meetings must be held as set forth in the bylaws or rules of the commission.

Sec. 5. All meetings must be open to the public, and public notice of meetings must be given in the same manner as required under the rulemaking provisions in IC 25-42-8.

Sec. 6. The commission may convene in a closed, nonpublic meeting if the commission must discuss any of the following:

- (1) Noncompliance of a party state with the party state's obligations under this compact.
- (2) The employment, compensation, discipline, or other personnel matters, practices, or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures.
- (3) Current, threatened, or reasonably anticipated litigation.
- (4) Negotiation of contracts for the purchase or sale of goods, services, or real estate.
- (5) Accusing a person of a crime or formally censuring a person.
- (6) Disclosure of trade secrets or commercial or financial information that is privileged or confidential.
- (7) Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.
- (8) Disclosure of investigatory records compiled for law enforcement purposes.
- (9) Disclosure of information related to reports prepared by or on behalf of the commission for the purpose of investigation of compliance with this compact.
- (10) Matters specifically exempted from disclosure by federal or state statute.

Sec. 7. (a) If a meeting or part of a meeting is closed under section 6 of this chapter, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

(b) 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 for the actions, including a description of the views expressed.

(c) All documents considered in connection with an action must be identified in the minutes of the meeting.

(d) All minutes and documents of a closed meeting must remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

Sec. 8. (a) The commission shall, by a majority vote of the administrators, prescribe bylaws or rules to govern the commission's conduct to carry out the purposes and exercise the powers of this compact, including the following:

- (1) Establishing the fiscal year of the commission.
- (2) Providing reasonable standards and procedures:
 - (A) for the establishment and meetings of other committees; and
 - (B) governing general or specific delegation of any authority or function of the commission.
- (3) Providing reasonable procedures for calling and conducting meetings of the commission, ensuring reasonable advance notice of all meetings and providing an opportunity for attendance of the meetings by interested parties, including the following:
 - (A) Enumerated exceptions designed to protect the public's interest, the privacy of individuals, and proprietary information, including trade secrets.
 - (B) A provision:
 - (i) allowing the commission to meet in closed session only after a majority of the administrators vote with no proxy voting to close a meeting in whole or in part; and
 - (ii) if the commission meets in closed session as described in item (i), requiring the commission to, as soon as practicable, make public a copy of the vote to close the meeting and revealing the vote of each administrator.
- (4) Establishing the titles, duties, and authority and reasonable procedures for the election of the officers of the commission.
- (5) Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission.
- (6) Providing a mechanism for winding up the operations of the commission and the equitable disposition of any surplus



funds that may exist after the termination of this compact after the payment or reserving of all of the commission's debts and obligations.

(b) Notwithstanding any civil service or other similar laws of any party state, the bylaws prescribed under this section exclusively govern the personnel policies and programs of the commission.

Sec. 9. The commission shall do all of the following:

- (1) Publish the commission's bylaws and rules and any amendments to the bylaws and rules in a convenient form on the Internet web site of the commission.**
- (2) Maintain the commission's financial records in accordance with the bylaws.**
- (3) Meet and take actions consistent with the provisions of this compact and the bylaws.**

Sec. 10. The commission has the following powers:

- (1) To promulgate uniform rules:
 - (A) having the force and effect of law; and**
 - (B) binding in all party states;**to facilitate and coordinate implementation and administration of this compact.**
- (2) To bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any licensing board to sue or be sued under applicable law shall not be affected.**
- (3) To purchase and maintain insurance and bonds.**
- (4) To borrow, accept, or contract for services of personnel, including employees of a party state or nonprofit organizations.**
- (5) To cooperate with other organizations that administer state compacts related to the regulation of nursing, including sharing administrative or staff expenses, office space, or other resources.**
- (6) To hire employees, elect or appoint officers, fix compensation, define duties, grant the employees and officers appropriate authority to carry out the purposes of this compact, and to establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and related personnel matters.**
- (7) To accept, receive, use, and dispose of appropriate donations, grants, and gifts of money, equipment, supplies, materials, and services while avoiding any appearance of**



impropriety or conflict of interest.

(8) To lease, purchase, and accept appropriate gifts or donations of, or otherwise to own, hold, improve, or use, any real, personal, or mixed property while avoiding any appearance of impropriety.

(9) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of real, personal, or mixed property.

(10) To establish a budget and make expenditures.

(11) To borrow money.

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

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

(14) To adopt and use an official seal.

(15) To perform other necessary or appropriate functions to achieve the purposes of this compact consistent with the state regulation of nurse licensure and practice.

Sec. 11. (a) The commission shall pay, or provide for the payment of, the reasonable expenses of the commission's establishment, organization, and ongoing activities.

(b) The commission may also levy on and collect an annual assessment from each party state to cover the cost of the commission's operations, activities, and staff in the commission's annual budget as approved each year. The aggregate annual assessment amount, if any, must be allocated based on a formula determined by the commission by promulgation of a rule that is binding on all party states.

(c) The commission shall not:

(1) incur an obligation of any kind before securing funds adequate to meet the obligation; or

(2) pledge the credit of any party state, except by and with the authority of, the party state.

(d) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission are subject to the audit and accounting procedures established under the commission's bylaws. However, all receipts and disbursements of funds handled by the commission must be audited annually by a certified or licensed public accountant, and the report of the audit must be included in and be part of the



annual report of the commission.

Sec. 12. (a) The administrators, officers, executive director, employees, and representatives of the commission are immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property, personal injury, or another civil liability caused by or arising out of an actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities.

(b) Subsection (a) does not protect an administrator, officer, executive director, employee, or representative of the commission from suit or liability for any damage, loss, injury, or liability caused by the intentional, willful, or wanton misconduct of that person.

(c) The commission shall defend an administrator, officer, executive director, employee, or representative of the commission in a civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities.

(d) Subsection (c) does not do the following:

- (1) Prohibit the administrator, officer, executive director, employee, or representative of the commission from retaining that person's own counsel.**
- (2) Require the commission to defend the administrator, officer, executive director, employee, or representative of the commission if the actual or alleged act, error, or omission resulted from that person's intentional, willful, or wanton misconduct.**

(e) The commission shall indemnify and hold harmless an 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 an actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities.

(f) Subsection (e) does not require the commission to indemnify or hold harmless an administrator, officer, executive director,



employee, or representative of the commission if, the actual or alleged act, error, or omission resulted from the intentional, willful, or wanton misconduct of that person.

Chapter 8. Rulemaking

Sec. 1. The commission shall exercise the commission's rulemaking powers according to the criteria set forth in, and the rules adopted under, this chapter. Rules and amendments are binding as of the date specified in each rule or amendment and have the same force and effect as provisions of this compact.

Sec. 2. Rules or amendments to the rules must be adopted at a regular or special meeting of the commission.

Sec. 3. Before promulgation and adoption of a final rule by the commission, and at least sixty (60) days before the meeting at which the rule will be considered and voted on is held, the commission shall file a notice of proposed rulemaking:

- (1) on the Internet web site of the commission; and
- (2) on the Internet web site of each licensing board or in the publication in which each state would otherwise publish proposed administrative rules.

Sec. 4. The notice of proposed rulemaking must include all of the following:

- (1) The proposed time, date, and location of the meeting at which the rule will be considered and voted on.
- (2) The text of the proposed rule or amendment and the reason for the proposed rule.
- (3) A request for comments on the proposed rule from any interested person.
- (4) The manner in which an interested person may submit:
 - (A) notice to the commission of the interested person's intention to attend the public hearing; and
 - (B) written comments.

Sec. 5. (a) Before adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions, and arguments.

(b) Submitted information and documents described in subsection (a) must be made available to the public.

Sec. 6. (a) The commission shall grant an opportunity for a public hearing before the commission adopts a rule or amendment.

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

(c) A public hearing must be conducted in a manner providing each person who wishes to comment a fair and reasonable



opportunity to comment orally or in writing. All hearings must be recorded and a copy of the record must be made available to the public upon request.

(d) This section does not require a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.

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

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

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

Sec. 8. (a) For purposes of this section, an emergency rule is a rule that must be adopted immediately to do at least one (1) of the following:

- (1) Meet an imminent threat to public health, safety, or welfare.
- (2) Prevent a loss of commission or party state funds.
- (3) Meet a deadline for the promulgation of an administrative rule that is required by federal law or rule.

(b) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing. However, the usual rulemaking procedures provided in this compact and in this chapter must be retroactively applied to the rule as soon as reasonably possible, and in no event later than ninety (90) days after the effective date of the rule.

Sec. 9. (a) The commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors.

(b) Public notice of any revisions must be posted on the Internet web site of the commission. A revision is subject to challenge by any person for thirty (30) days after posting. A revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge must 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.

Chapter 9. Oversight, Dispute Resolution, and Enforcement

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

Sec. 2. The commission:

- (1) is entitled to receive service of process in a proceeding that may affect the powers, responsibilities, or actions of the commission; and**
- (2) has standing to intervene in a proceeding described in subdivision (1) for all purposes.**

Failure to provide service of process in a proceeding to the commission renders a judgment or order void as to the commission, this compact, or promulgated rules.

Sec. 3. If the commission determines that a party state has defaulted in the performance of the party state's obligations or responsibilities under this compact or the promulgated rules, the commission shall:

- (1) provide written notice to the defaulting state and other party states of the nature of the default, the proposed means of curing the default, or another action to be taken by the commission; and**
- (2) provide remedial training and specific technical assistance regarding the default.**

Sec. 4. (a) If a state in default fails to cure the default, the defaulting state's membership in this compact may be terminated upon an affirmative vote of a majority of the administrators, and all rights, privileges, and benefits conferred by this compact may be terminated on the effective date of termination.

(b) A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

Sec. 5. Termination of membership in this compact must be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate must be given by the commission to the governor of the defaulting state and to the executive officer of the defaulting state's licensing board and each of the party states.

Sec. 6. A state whose membership in this compact has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of



termination.

Sec. 7. The commission does not bear any costs related to a state that is found to be in default or whose membership in this compact has been terminated, unless agreed upon in writing between the commission and the defaulting state.

Sec. 8. The defaulting state may appeal the action of the commission by petitioning the United States District Court for the District of Columbia or the federal district in which the commission has the commission's principal offices. The prevailing party must be awarded all costs of the litigation, including reasonable attorney's fees.

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

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

(c) If the commission cannot resolve disputes among party states arising under this compact:

(1) the party states may submit the issues in dispute to an arbitration panel, which must be comprised of individuals appointed by the compact administrator in each of the affected party states and an individual mutually agreed upon by the compact administrators of all the party states involved in the dispute; and

(2) the decision of a majority of the arbitrators is final and binding.

Sec. 10. (a) The commission, in the reasonable exercise of the commission's discretion, shall enforce the provisions and rules of this compact.

(b) By majority vote, the commission may initiate legal action in the United States District Court for the District of Columbia or the federal district in which the commission has the commission's principal offices against a party state that is in default to enforce compliance with the provisions of this compact and the commission's promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party must be awarded all costs of the litigation, including reasonable attorney's fees.

(c) The remedies described in this section are not the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.



Chapter 10. Withdrawal and Amendment

Sec. 1. (a) Any party state may withdraw from this compact by enacting a statute repealing the compact. A party state's withdrawal does not take effect until six (6) months after enactment of the repealing statute.

(b) A party state's withdrawal or termination does not affect the continuing requirement of the withdrawing or terminated state's licensing board to report adverse actions and significant investigations occurring before the effective date of the withdrawal or termination.

(c) This compact does not invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a nonparty state that is made in accordance with the other provisions of this compact.

(d) This compact may be amended by the party states. An amendment to this compact is not effective and binding on the party states until the amendment is enacted into the laws of all party states.

(e) Representatives of nonparty states to this compact must be invited to participate in the activities of the commission, on a nonvoting basis, before the adoption of this compact by all states.

Chapter 11. Construction and Severability

Sec. 1. This compact must be liberally construed so as to effectuate the purposes of the compact. The provisions of this compact are severable, and if any phrase, clause, sentence, or provision of the compact is declared to be contrary to the constitution of any party state or of the United States, or if the applicability of the compact to any government, agency, person, or circumstance is held invalid, the validity of the remainder of the compact and the applicability of the compact to any government, agency, person, or circumstance is not affected.

Sec. 2. If this compact is held to be contrary to the constitution of any party state, the compact remains in full force and effect as to the:

- (1)** remaining party states; and
- (2)** party state affected;

as to all severable matters.

Sec. 3. This compact takes effect on July 1, 2019.

SECTION 6. IC 34-30-2-101.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 101.6. IC 25-42-7-12 (Concerning acts and omissions under the interstate nurse licensure compact).**



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

HEA 1344 — Concur

