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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS -- NURSE LICENSURE COMPACT

Introduced By: Representatives Kennedy, Abney, Azzinaro, O'Brien, and Messier

Date Introduced: January 18, 2018

Referred To: House Health, Education & Welfare

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 5-34.3-3, 5-34.3-4, 5-34.3-5, 5-34.3-6, 5-34.3-8, 5-34.3-9, 5-34.3-
2 10, 5-34.3-12 and 5-34.3-14 of the General Laws in Chapter 5-34.3 entitled "Nurse Licensure
3 Compact" are hereby amended to read as follows:

4 **5-34.3-3. Legislative findings.**

5 (a) The general assembly finds and declares that:

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

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

10 (3) The expanded mobility of nurses and the use of advanced communication
11 technologies as part of our nation's healthcare delivery system require greater coordination and
12 cooperation among states in the areas of nurse licensure and regulations;

13 (4) New practice modalities and technology make compliance with individual state nurse
14 licensure laws difficult and complex; ~~and~~

15 (5) The current system of duplicative licensure for nurses practicing in multiple states is
16 cumbersome and redundant to both nurses and states- ; and

17 (6) Uniformity of nurse licensure requirements throughout the states promotes public
18 safety and public health benefits.

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

- 1 (1) Facilitate the states' responsibility to protect the public's health and safety;
- 2 (2) Ensure and encourage the cooperation of party states in the areas of nurse licensure
3 and regulation;
- 4 (3) Facilitate the exchange of information between party states in the areas of nurse
5 regulation, investigation and adverse actions;
- 6 (4) Promote compliance with the laws governing the practice of nursing in each
7 jurisdiction; ~~and~~
- 8 (5) Invest all party states with the authority to hold a nurse accountable for meeting all
9 state practice laws in the state in which the patient is located at the time care is rendered through
10 the mutual recognition of party state licenses- ;

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

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

14 **5-34.3-4. Definitions.**

15 As used in this chapter:

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

22 (2) "Alternative program" means a voluntary, non-disciplinary monitoring program
23 approved by a nurse licensing board.

24 (3) "Commission" means the interstate commission of nurse license compact
25 administrators, the governing body of the nurse licensure compact.

26 ~~(3)~~(4) "Coordinated licensure information system" means an integrated process for
27 collecting, storing, and sharing information on nurse licensure and enforcement activities related
28 to nurse licensure laws, which is administered by a non-profit organization composed of and
29 controlled by state nurse licensing boards.

30 ~~(4)~~(5) "Current significant investigative information" means investigative information
31 that a licensing board, after a preliminary inquiry that includes notification and an opportunity for
32 the nurse to respond if required by state law, has reason to believe is not groundless and, if proved
33 true, would indicate more than a minor infraction; or investigative information that indicates that
34 the nurse represents an immediate treat to public health and safety regardless of whether the nurse

1 has been notified and had an opportunity to respond.

2 (6) "Encumbrance" means a revocation or suspension of, or any limitation on, the full and
3 unrestricted practice of nursing imposed by a licensing board.

4 ~~(5)~~(7) "Home state" means the party state which is the nurse's primary state of residence.

5 ~~(6)~~(8) "Home state action" means any administrative, civil, equitable or criminal action
6 permitted by the home state's laws which are imposed on a nurse by the home state's licensing
7 board or other authority including actions against an individual's license such as: revocation,
8 suspension, probation or any other action which affects a nurse's authorization to practice.

9 ~~(7)~~(9) "Licensing board" means a party state's regulatory body responsible for issuing
10 nurse licenses.

11 ~~(8)~~(10) "Multistate licensure ~~privilege~~" means ~~current, official authority from a remote~~
12 ~~state permitting the practice of nursing as either a registered nurse or a licensed~~
13 ~~practical/vocational nurse in such party state. All party states have the authority, in accordance~~
14 ~~with existing state due process law, to take actions against the nurse's privilege such as:~~
15 ~~revocation, suspension, probation or any other action which affects a nurse's authorization to~~
16 ~~practice~~ a license to practice as a registered nurse (RN) or a licensed practical nurse/vocational
17 nurse (LPN/VN) issued by a home state licensing board that authorizes the licensed nurse to
18 practice in all party states under a multistate licensure privilege.

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

22 ~~(9)~~(12) "Nurse" means a registered nurse or licensed practical/vocational nurse, as those
23 terms are defined by each party's state practice laws.

24 ~~(10)~~(13) "Party state" means any state that has adopted this compact.

25 ~~(11)~~(14) "Remote state" means a party state, other than the home state, ~~where the patient~~
26 ~~is located at the time nursing care is provided, or, in the case of the practice of nursing not~~
27 ~~involving a patient, in such party state where the recipient of nursing practice is located.~~

28 ~~(12)~~(15) "Remote state action" means any administrative, civil, equitable or criminal
29 action permitted by a remote state's laws which are imposed on a nurse by the remote state's
30 licensing board or other authority including actions against an individual's multistate licensure
31 privilege to practice in the remote state, and cease and desist and other injunctive or equitable
32 orders issued by remote states or the licensing boards thereof.

33 (16) "Single-state license" means a nurse license issued by a party state that authorizes
34 practice only within the issuing state and does not include a multistate licensure privilege to

1 [practice in any other party state.](#)

2 ~~(13)~~(17) "State" means a state, territory, or possession of the United States, the District of
3 Columbia.

4 ~~(14)~~(18) "State practice laws" means those individual party's state laws and regulations
5 that govern the practice of nursing, define the scope of nursing practice, and create the methods
6 and grounds for imposing discipline. It does not include the initial qualifications for licensure or
7 requirements necessary to obtain and retain a license, except for qualifications or requirements of
8 the home state.

9 **5-34.3-5. Permitted activities and jurisdiction. General provisions and jurisdiction.**

10 ~~(a) A license to practice registered nursing issued by a home state to a resident in that~~
11 ~~state will be recognized by each party state as authorizing a multistate licensure privilege to~~
12 ~~practice as a registered nurse in such party state. A license to practice licensed~~
13 ~~practical/vocational nursing issued by a home state to a resident in that state will be recognized by~~
14 ~~each party state as authorizing a multistate licensure privilege to practice as a licensed~~
15 ~~practical/vocational nurse in such party state. In order to obtain or retain a license, an applicant~~
16 ~~must meet the home state's qualifications for licensure and license renewal as well as all other~~
17 ~~applicable state laws.~~

18 ~~(b) Party states may, in accordance with state due process laws, limit or revoke the~~
19 ~~multistate licensure privilege of any nurse to practice in their state and may take any other actions~~
20 ~~under their applicable state laws necessary to protect the health and safety of their citizens. If a~~
21 ~~party state takes such action, it shall promptly notify the administrator of the coordinated~~
22 ~~licensure information system. The administrator of the coordinated licensure information system~~
23 ~~shall promptly notify the home state of any such actions by remote states.~~

24 ~~(c) Every nurse practicing in a party state must comply with the state practice laws of the~~
25 ~~state in which the patient is located at the time care is rendered. In addition, the practice of~~
26 ~~nursing is not limited to patient care, but shall include all nursing practice as defined by the state~~
27 ~~practice laws of a party state. The practice of nursing will subject a nurse to the jurisdiction of the~~
28 ~~nurse licensing board and courts, as well as the laws, in that party state.~~

29 ~~(d) This compact does not affect additional requirements imposed by states for advanced~~
30 ~~practice registered nursing. However, a multistate licensure privilege to practice registered~~
31 ~~nursing granted by a party shall be recognized by other party states as a license to practice~~
32 ~~registered nursing if one is required by state law as a precondition for qualifying for advanced~~
33 ~~practice registered nurse authorization.~~

34 ~~(e) Individuals not residing in a party state shall continue to be able to apply for nurse~~

~~licensure as provided for under the laws of each party state. However, the license granted to these individuals will not be recognized as granting the privilege to practice nursing in any other party state unless explicitly agreed to by that party state.~~

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

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

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

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

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

(ii) Has graduated from a foreign RN or LPN/VN prelicensure education program that:

(A) Has been approved by the authorized accrediting body in the applicable country; and

(B) Has been verified by an independent credentials review agency to be comparable to a licensing board-approved prelicensure education program;

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

(4) Has successfully passed an NCLEX-RN® or NCLEX-PN® Examination or recognized predecessor, as applicable;

(5) Is eligible for or holds an active, unencumbered license;

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

(7) Has not been convicted or found guilty nor entered into an agreed disposition of a felony offense under applicable state or federal criminal law;

1 (8) Has not been convicted or found guilty nor entered into an agreed disposition of a
2 misdemeanor offense related to the practice of nursing as determined on a case-by-case basis;

3 (9) Is not currently enrolled in an alternative program;

4 (10) Is subject to self-disclosure requirements regarding current participation in an
5 alternative program; and

6 (11) Has a valid United States Social Security number.

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

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

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

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

28 (1) A nurse, who changes primary state of residence after this compact's effective date,
29 must meet all applicable requirements to obtain a multistate license from a new home state; and

30 (2) A nurse who fails to satisfy the multistate licensure requirements due to a
31 disqualifying event occurring after this compact's effective date shall be ineligible to retain or
32 renew a multistate license, and the nurse's multistate license shall be revoked or deactivated in
33 accordance with applicable rules adopted by the commission.

34 **5-34.3-6. Applications for licensure in a party state.**

1 ~~(a) Upon application for a license, the licensing board in a party state shall ascertain,~~
2 ~~through the coordinated licensure information system, whether the applicant has ever held, or is~~
3 ~~the holder of, a license issued by any other state, whether there are any restrictions on the~~
4 ~~multistate licensure privilege, and whether any other adverse action by any state has been taken~~
5 ~~against the license.~~

6 ~~(b) A nurse in a party state shall hold licensure in only one party state at a time, issued by~~
7 ~~the home state.~~

8 ~~(c) A nurse who intends to change primary state of residence may apply for licensure in~~
9 ~~the new home state in advance of such change. However, new licenses will not be issued by a~~
10 ~~party state until after a nurse provides evidence of change in primary state of residence~~
11 ~~satisfactory to the new home state's licensing board.~~

12 ~~(d) When a nurse changes primary state of residence by;~~

13 ~~(1) Moving between two party states, and obtains a license from the new home state, the~~
14 ~~license from the former home state is no longer valid;~~

15 ~~(2) Moving from a non party state to a party state, and obtains a license from the new~~
16 ~~home state, the individual state license issued by the non party state is not affected and will~~
17 ~~remain in full force if so provided by the laws of the non party state;~~

18 ~~(3) Moving from a party state to a non party state, the license issued by the prior home~~
19 ~~state converts to an individual state license, valid only in the former home state, without the~~
20 ~~multistate licensure privilege to practice in other party states.~~

21 (a) Upon application for a multistate license, the licensing board in the issuing party state
22 shall ascertain, through the coordinated licensure information system, whether the applicant has
23 ever held, or is the holder of, a license issued by any other state, whether there are any
24 encumbrances on any license or multistate licensure privilege held by the applicant, whether any
25 adverse action has been taken against any license or multistate licensure privilege held by the
26 applicant and whether the applicant is currently participating in an alternative program.

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

29 (c) If a nurse changes primary state of residence by moving between two (2) party states,
30 the nurse must apply for licensure in the new home state, and the multistate license issued by the
31 prior home state will be deactivated in accordance with applicable rules adopted by the
32 commission.

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

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

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

7 **5-34.3-8. Additional authorities invested in party state nurse licensing boards.**

8 (a) Notwithstanding any other powers conferred by state law, party state nurse licensing
9 boards shall have the authority to:

10 ~~(1) If otherwise permitted by state law, recover from the affected nurse the costs of~~
11 ~~investigations and disposition of cases resulting from any adverse action taken against that nurse;~~

12 ~~(2) Issue subpoenas for both hearings and investigations which require the attendance and~~
13 ~~testimony of witnesses, and the production of evidence. Subpoenas issued by a nurse licensing~~
14 ~~board in a party state for the attendance and testimony of witnesses, and/or the production of~~
15 ~~evidence from another party state, shall be enforced in the latter state by any court of competent~~
16 ~~jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued~~
17 ~~in proceedings pending before it. The issuing authority shall pay any witness fees, travel~~
18 ~~expenses, mileage and other fees required by the service statutes of the state where the witnesses~~
19 ~~and/or evidence are located.~~

20 ~~(3) Issue cease and desist orders to limit or revoke a nurse's authority to practice in their~~
21 ~~state;~~

22 ~~(4) Promulgate uniform rules and regulations as provided for in subsection 5-34.3-10(c).~~

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

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

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

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

33 (3) Complete any pending investigations of a nurse who changes primary state of
34 residence during the course of such investigations. The licensing board shall also have the

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

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

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

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

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

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

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

31 **5-34.3-9. ~~Coordinated licensure information system~~ Coordinated licensure**
32 **information system and exchange of information.**

33 (a) All party states shall participate in a ~~cooperative effort to create a~~ coordinated ~~data~~
34 ~~base~~ licensure information system of all licensed registered nurses (RNs) and licensed practical

1 nurses/vocational nurses (LPNs/VNs). This system will include information on the licensure and
2 disciplinary history of each nurse, as ~~contributed~~ submitted by party states, to assist in the
3 coordination of nurse licensure and enforcement efforts.

4 ~~(b) Notwithstanding any other provision of law, all party states' licensing boards shall~~
5 ~~promptly report adverse actions, actions against multistate licensure privileges, any current~~
6 ~~significant investigative information yet to result in adverse action, denials of applications, and~~
7 ~~the reasons for such denials, to the coordinated licensure information system.~~

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

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

16 ~~(e)~~(d) Current significant investigative information and participation in nonpublic or
17 confidential alternative programs shall be transmitted through the coordinated licensure
18 information system only to party state licensing boards.

19 ~~(d)~~(e) Notwithstanding any other provision of law, all party states' licensing boards
20 contributing information to the coordinated licensure information system may designate
21 information that may not be shared with non-party states or disclosed to other entities or
22 individuals without the express permission of the contributing state.

23 ~~(e)~~(f) Any personally identifiable information obtained from the coordinated licensure
24 information system by a party state's licensing board shall ~~from the coordinated licensure~~
25 ~~information system may~~ not be shared with non-party states or disclosed to other entities or
26 individuals except to the extent permitted by the laws of the party state contributing the
27 information.

28 ~~(f)~~(g) Any information contributed to the coordinated licensure information system that is
29 subsequently required to be expunged by the laws of the party state contributing that information,
30 shall also be expunged from the coordinated licensure information system.

31 ~~(g) The compact administrators, acting jointly with each other and in consultation with~~
32 ~~the administrator of the coordinated licensure information system, shall formulate necessary and~~
33 ~~proper procedures for the identification, collection and exchange of information under this~~
34 ~~compact.~~

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

3 (1) Identifying information;

4 (2) Licensure data;

5 (3) Information related to alternative program participation; and

6 (4) Other information that may facilitate the administration of this compact, as
7 determined by commission rules.

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

10 **5-34.3-10. Compact administration and interchange of information Establishment of**
11 **the interstate commission of nurse licensure compact administrators.**

12 ~~(a) The head of the nurse licensing board, or his/her designee, of each party state shall be~~
13 ~~the administrator of this compact for his/her state.~~

14 ~~(b) The compact administrator of each party shall furnish to the compact administrator of~~
15 ~~each other party state any information and documents including, but not limited to, a uniform data~~
16 ~~set of investigations, identifying information, licensure data, and disclosable alternative program~~
17 ~~participation information to facilitate the administration of this compact.~~

18 ~~(c) Compact administrators shall have the authority to develop uniform rules to facilitate~~
19 ~~and coordinate implementation of this compact. These uniform rules shall be adopted by party~~
20 ~~states, under the authority invested under subsection 5-34.3-8(4).~~

21 (a) The party states hereby create and establish a joint public entity known as the
22 interstate commission of nurse licensure compact administrators (the "commission").

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

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

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

29 (b) Membership, voting and meetings:

30 (1) Each party state shall have and be limited to one administrator. The head of the state
31 licensing board or designee shall be the administrator of this compact for each party state. Any
32 administrator may be removed or suspended from office as provided by the law of the state from
33 which the administrator is appointed. Any vacancy occurring in the commission shall be filled in
34 accordance with the laws of the party state in which the vacancy exists.

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

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

8 (4) All meetings shall be open to the public, and public notice of meetings shall be given
9 in the same manner as required under the rulemaking provisions in § 5-34.3-10.1.

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

12 (i) Noncompliance of a party state with its obligations under this compact;

13 (ii) The employment, compensation, discipline or other personnel matters, practices or
14 procedures related to specific employees or other matters related to the commission's internal
15 personnel practices and procedures;

16 (iii) Current, threatened or reasonably anticipated litigation;

17 (iv) Negotiation of contracts for the purchase or sale of goods, services or real estate;

18 (v) Accusing any person of a crime or formally censuring any person;

19 (vi) Disclosure of trade secrets or commercial or financial information that is privileged
20 or confidential;

21 (vii) Disclosure of information of a personal nature where disclosure would constitute a
22 clearly unwarranted invasion of personal privacy;

23 (viii) Disclosure of investigatory records compiled for law enforcement purposes;

24 (ix) Disclosure of information related to any reports prepared by or on behalf of the
25 commission for the purpose of investigation of compliance with this compact; or

26 (x) Matters specifically exempted from disclosure by federal or state statute.

27 (6) If a meeting, or portion of a meeting, is closed pursuant to this provision, the
28 commission's legal counsel or designee shall certify that the meeting may be closed and shall
29 reference each relevant exempting provision. The commission shall keep minutes that fully and
30 clearly describe all matters discussed in a meeting and shall provide a full and accurate summary
31 of actions taken, and the reasons therefor, including a description of the views expressed. All
32 documents considered in connection with an action shall be identified in such minutes. All
33 minutes and documents of a closed meeting shall remain under seal, subject to release by a
34 majority vote of the commission or order of a court of competent jurisdiction.

1 (c) The commission shall, by a majority vote of the administrators, prescribe bylaws or
2 rules to govern its conduct as 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 meetings of other committees; and

7 (ii) Governing any general or specific delegation of any authority or function of the
8 commission;

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

17 (4) Establishing the titles, duties and authority and reasonable procedures for the election
18 of the officers of the commission;

19 (5) Providing reasonable standards and procedures for the establishment of the personnel
20 policies and programs of the commission. Notwithstanding any civil service or other similar laws
21 of any party state, the bylaws shall exclusively govern the personnel policies and programs of the
22 commission; and

23 (6) Providing a mechanism for winding up the operations of the commission and the
24 equitable disposition of any surplus funds that may exist after the termination of this compact
25 after the payment or reserving of all of its debts and obligations;

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

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

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

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

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

- 1 (2) To bring and prosecute legal proceedings or actions in the name of the commission,
2 provided that the standing of any licensing board to sue or be sued under applicable law shall not
3 be affected;
- 4 (3) To purchase and maintain insurance and bonds;
- 5 (4) To borrow, accept or contract for services of personnel, including, but not limited to,
6 employees of a party state or nonprofit organizations;
- 7 (5) To cooperate with other organizations that administer state compacts related to the
8 regulation of nursing, including, but not limited to, sharing administrative or staff expenses,
9 office space or other resources;
- 10 (6) To hire employees, elect or appoint officers, fix compensation, define duties, grant
11 such individuals appropriate authority to carry out the purposes of this compact, and to establish
12 the commission's personnel policies and programs relating to conflicts of interest, qualifications
13 of personnel and other related personnel matters;
- 14 (7) To accept any and all appropriate donations, grants and gifts of money, equipment,
15 supplies, materials and services, and to receive, utilize and dispose of the same; provided that at
16 all times the commission shall avoid any appearance of impropriety or conflict of interest;
- 17 (8) To lease, purchase, accept appropriate gifts or donations of, or otherwise to own,
18 hold, improve or use, any property, whether real, personal or mixed; provided that at all times the
19 commission shall avoid any appearance of impropriety;
- 20 (9) To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of
21 any property, whether real, personal or mixed;
- 22 (10) To establish a budget and make expenditures;
- 23 (11) To borrow money;
- 24 (12) To appoint committees, including advisory committees comprised of administrators,
25 state nursing regulators, state legislators or their representatives, and consumer representatives,
26 and other such interested persons;
- 27 (13) To provide and receive information from, and to cooperate with, law enforcement
28 agencies;
- 29 (14) To adopt and use an official seal; and
- 30 (15) To perform such other functions as may be necessary or appropriate to achieve the
31 purposes of this compact consistent with the state regulation of nurse licensure and practice.
- 32 (h) Financing of the commission:
- 33 (1) The commission shall pay, or provide for the payment of, the reasonable expenses of
34 its establishment, organization and ongoing activities;

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

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

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

15 (i) Qualified immunity, defense and indemnification:

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

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

32 (3) The commission shall indemnify and hold harmless any administrator, officer,
33 executive director, employee or representative of the commission for the amount of any
34 settlement or judgment obtained against that person arising out of any actual or alleged act, error

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

5 **5-34.3-12. Entry into force, withdrawal and amendment Effective date, withdrawal**
6 **and amendment.**

7 ~~(a) This compact shall enter into force and become effective as to any state when it has~~
8 ~~been enacted into the laws of that state. Any party state may withdraw from this compact by~~
9 ~~enacting a statute repealing the same, but no such withdrawal shall take effect until six (6) months~~
10 ~~after the withdrawing state has given notice of the withdrawal to the executive heads of all other~~
11 ~~party states.~~

12 ~~(b) No withdrawal shall affect the validity or applicability by the licensing boards of~~
13 ~~states remaining party to the compact of any report of adverse action occurring prior to the~~
14 ~~withdrawal.~~

15 ~~(c) Nothing contained in this compact shall be construed to invalidate or prevent any~~
16 ~~nurse licensure agreement or other cooperative arrangement between a party state and a non party~~
17 ~~state that is made in accordance with the other provisions of this compact.~~

18 ~~(d) This compact may be amended by the party states. No amendment to this compact~~
19 ~~shall become effective and binding upon the party states unless and until it is enacted into the~~
20 ~~laws of all party states.~~

21 (a) This compact shall become effective upon passage. All party states to this compact,
22 that also were parties to the prior nurse licensure compact, superseded by this compact, ("prior
23 compact"), shall be deemed to have withdrawn from said prior compact within six (6) months
24 after the effective date of this compact.

25 (b) Each party state to this compact shall continue to recognize a nurse's multistate
26 licensure privilege to practice in that party state issued under the prior compact until such party
27 state has withdrawn from the prior compact.

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

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

34 (e) Nothing contained in this compact shall be construed to invalidate or prevent any

1 nurse licensure agreement or other cooperative arrangement between a party state and a non-party
2 state that is made in accordance with the other provisions of this compact.

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

6 (g) Representatives of non-party states to this compact shall be invited to participate in
7 the activities of the commission, on a nonvoting basis, prior to the adoption of this compact by all
8 states.

9 **5-34.3-14. Construction and severability.**

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

19 (b) ~~In the event party states find a need for settling disputes arising under this compact:~~

20 (1) ~~The party states may submit the issues in dispute to an arbitration panel which will be~~
21 ~~comprised of an individual appointed by the compact administrator in the home state; an~~
22 ~~individual appointed by the compact administrator in the remote state(s) involved; and an~~
23 ~~individual mutually agreed upon by the compact administrators of all the party states involved in~~
24 ~~the dispute.~~

25 (2) ~~The decision of a majority of the arbitrators shall be final and binding.~~

26 SECTION 2. Sections 5-34.3-7 and 5-34.3-11 of the General Laws in Chapter 5-34.3
27 entitled "Nurse Licensure Compact" are hereby repealed.

28 **~~5-34.3-7. Adverse actions.~~**

29 ~~In addition to the provisions described in § 5-34.3-5, the following provisions apply:~~

30 (1) ~~The licensing board of a remote state shall promptly report to the administrator of the~~
31 ~~coordinated licensure information system any remote state actions including the factual and legal~~
32 ~~basis for such action, if known. The licensing board of a remote state shall also promptly report~~
33 ~~any significant current investigative information yet to result in a remote state action. The~~
34 ~~administrator of the coordinated licensure information system shall promptly notify the home~~

1 ~~state of any such reports.~~

2 ~~(2) The licensing board of a party state shall have the authority to complete any pending~~
3 ~~investigations for a nurse who changes primary state of residence during the course of such~~
4 ~~investigations. It shall also have the authority to take appropriate action(s), and shall promptly~~
5 ~~report the conclusions of such investigations to the administrator of the coordinated licensure~~
6 ~~information system. The administrator of the coordinated licensure information system shall~~
7 ~~promptly notify the new home state of any such actions.~~

8 ~~(3) A remote state may take adverse action affecting the multistate licensure privilege to~~
9 ~~practice within that party state. However, only the home state shall have the power to impose~~
10 ~~adverse action against the license issued by the home state.~~

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

15 ~~(5) The home state may take adverse action based on the factual findings of the remote~~
16 ~~state, so long as each state follows its own procedures for imposing such adverse action.~~

17 ~~(6) Nothing in this compact shall override a party state's decision that participation in an~~
18 ~~alternative program may be used in lieu of licensure action and that such participation shall~~
19 ~~remain non-public if required by the party state's laws. Party states must require nurses who enter~~
20 ~~any alternative programs to agree not to practice in any other party state during the term of the~~
21 ~~alternative program without prior authorization from such other party state.~~

22 **5-34.3-11. Immunity.**

23 ~~No party state or the officers or employees or agents of a party state's nurse licensing~~
24 ~~board who acts in accordance with the provisions of this compact shall be liable on account of~~
25 ~~any act or omission in good faith while engaged in the performance of their duties under this~~
26 ~~compact. Good faith in this article shall not include willful misconduct, gross negligence, or~~
27 ~~recklessness.~~

28 SECTION 3. Chapter 5-34.3 of the General Laws entitled "Nurse Licensure Compact" is
29 hereby amended by adding thereto the following sections:

30 **5-34.3-10.1. Rulemaking.**

31 (a) The commission shall exercise its rulemaking powers pursuant to the criteria set forth
32 in this section and the rules adopted thereunder. Rules and amendments shall become binding as
33 of the date specified in each rule or amendment and shall have the same force and effect as
34 provisions of this compact.

1 (b) Rules or amendments to the rules shall be adopted at a regular or special meeting of
2 the commission.

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

6 (1) On the website of the commission; and

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

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

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

12 (2) The text of the proposed rule or amendment, and the reason for the proposed rule;

13 (3) A request for comments on the proposed rule from any interested person; and

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

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

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

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

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

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

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

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

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

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

7 (1) Meet an imminent threat to public health, safety or welfare;

8 (2) Prevent a loss of commission or party state funds; or

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

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

20 **5-34.3-11.1. Oversight, dispute resolution and enforcement.**

21 (a) Oversight.

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

24 (2) The commission shall be entitled to receive service of process in any proceeding that
25 may affect the powers, responsibilities or actions of the commission, and shall have standing to
26 intervene in such a proceeding for all purposes. Failure to provide service of process in such
27 proceeding to the commission shall render a judgment or order void as to the commission, this
28 compact or promulgated rules.

29 (b) Default, technical assistance and termination.

30 (1) If the commission determines that a party state has defaulted in the performance of its
31 obligations or responsibilities under this compact or the promulgated rules, the commission shall:

32 (i) Provide written notice to the defaulting state and other party states of the nature of the
33 default, the proposed means of curing the default or any other action to be taken by the
34 commission; and

1 (ii) Provide remedial training and specific technical assistance regarding the default;

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

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

11 (4) A state whose membership in this compact has been terminated is responsible for all
12 assessments, obligations and liabilities incurred through the effective date of termination,
13 including obligations that extend beyond the effective date of termination;

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

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

21 (c) Dispute Resolution.

22 (1) Upon request by a party state, the commission shall attempt to resolve disputes related
23 to the compact that arise among party states and between party and non-party states;

24 (2) The commission shall promulgate a rule providing for both mediation and binding
25 dispute resolution for disputes, as appropriate;

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

28 (i) The party states may submit the issues in dispute to an arbitration panel, which will be
29 comprised of individuals appointed by the compact administrator in each of the affected party
30 states and an individual mutually agreed upon by the compact administrators of all the party
31 states involved in the dispute;

32 (ii) The decision of a majority of the arbitrators shall be final and binding.

33 (d) Enforcement.

34 (1) The commission, in the reasonable exercise of its discretion, shall enforce the

1 provisions and rules of this compact;

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

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

10 SECTION 4. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO BUSINESSES AND PROFESSIONS -- NURSE LICENSURE COMPACT

1 This act would amend the nurse licensure compact and adopts an enhanced version of the
2 act, to allow nurses to hold a multi-state license which would allow them to practice across state
3 lines without having to obtain multiple licenses.

4 This act would take effect upon passage.

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LC003248
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