

# ASSEMBLY, No. 1597

## STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

**Sponsored by:**

**Assemblyman HERB CONAWAY, JR.**

**District 7 (Burlington)**

**Assemblyman PAUL D. MORIARTY**

**District 4 (Camden and Gloucester)**

**Assemblywoman SHAVONDA E. SUMTER**

**District 35 (Bergen and Passaic)**

**Assemblywoman ANGELA MCKNIGHT**

**District 31 (Hudson)**

**Assemblyman RAJ MUKHERJI**

**District 33 (Hudson)**

**Assemblywoman JOANN DOWNEY**

**District 11 (Monmouth)**

**Co-Sponsored by:**

**Assemblywomen Quijano, Lampitt, Pinkin, Murphy, N.Munoz, Jones and Chaparro**

**SYNOPSIS**

Enters New Jersey in multistate Nurse Licensure Compact.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 8/28/2018)**

1 AN ACT concerning the multistate Nurse Licensure Compact and  
2 supplementing Title 45 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the  
5 State of New Jersey:

6

7 1. The State of New Jersey enacts and enters into the Nurse  
8 Licensure Compact with all other jurisdictions that legally join in  
9 the compact in the form substantially as follows:

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11 ARTICLE I: Findings and Declaration of Purpose

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13 a. The party states find that:

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

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

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

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

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

28 6. Uniformity of nurse licensure requirements throughout the  
29 states promotes public safety and public health benefits.

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

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

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

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

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

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

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

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

ARTICLE II: Definitions

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As used in this Compact:

- a. “Adverse action” means any administrative, civil, equitable or criminal action permitted by a state’s laws which is imposed by a licensing board or other authority against a nurse, including actions against an individual’s license or multistate licensure privilege such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee’s practice, or any other encumbrance on licensure affecting a nurse’s authorization to practice, including issuance of a cease and desist action.
- b. “Alternative program” means a non-disciplinary monitoring program approved by a licensing board.
- c. “Coordinated licensure information system” means an integrated process for collecting, storing and sharing information on nurse licensure and enforcement activities related to nurse licensure laws that is administered by a nonprofit organization composed of and controlled by licensing boards.
- d. “Current significant investigative information” means:
  - 1. Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or
  - 2. Investigative information that indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond.
- e. “Encumbrance” means a revocation or suspension of, or any limitation on, the full and unrestricted practice of nursing imposed by a licensing board.
- f. “Home state” means the party state which is the nurse’s primary state of residence.
- g. “Licensing board” means a party state’s regulatory body responsible for issuing nurse licenses.
- h. “Multistate license” means a license to practice as a registered nurse (RN) or as a licensed practical/vocational nurse (LPN/VN), which is issued by a home state licensing board, and which authorizes the licensed nurse to practice in all party states under a multistate licensure privilege.
- i. “Multistate licensure privilege” means a legal authorization associated with a multistate license permitting the practice of nursing as either a registered nurse (RN) or a licensed practical/vocational nurse (LPN/VN) in a remote state.
- j. “Nurse” means RN or LPN/VN, as those terms are defined by each party state’s practice laws.
- k. “Party state” means any state that has adopted this Compact.
- l. “Remote state” means a party state, other than the home state.
- m. “Single-state license” means a nurse license issued by a party

1 state that authorizes practice only within the issuing state and does not  
2 include a multistate licensure privilege to practice in any other party  
3 state.

4 n. “State” means a state, territory or possession of the United  
5 States and the District of Columbia.

6 o. “State practice laws” means a party state’s laws, rules and  
7 regulations that govern the practice of nursing, define the scope of  
8 nursing practice, and create the methods and grounds for imposing  
9 discipline. “State practice laws” do not include requirements necessary  
10 to obtain and retain a license, except for qualifications or requirements  
11 of the home state.

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13 ARTICLE III: General Provisions and Jurisdiction

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

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

28 c. Each party state shall require its licensing board to authorize an  
29 applicant to obtain or retain a multistate license in the home state only  
30 if the applicant:

31 1. Meets the home state’s qualifications for licensure or renewal of  
32 licensure, and complies with all other applicable state laws;

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

35 ii. Has graduated from a foreign RN or LPN/VN prelicensure  
36 education program that has been: (a) approved by the authorized  
37 accrediting body in the applicable country, and (b) verified by an  
38 independent credentials review agency to be comparable to a licensing  
39 board-approved prelicensure education program;

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

44 4. Has successfully passed an NCLEX-RN or NCLEX-PN  
45 Examination or recognized predecessor, as applicable;

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

47 6. Has submitted, in connection with an application for initial  
48 licensure or licensure by endorsement, fingerprints or other biometric

- 1 data for the purpose of obtaining criminal history record information
- 2 from the Federal Bureau of Investigation and the agency responsible for
- 3 retaining that state's criminal records;
- 4 7. Has not been convicted or found guilty, or has entered into an
- 5 agreed disposition, of a felony offense under applicable state or federal
- 6 criminal law;
- 7 8. Has not been convicted or found guilty, or has entered into an
- 8 agreed disposition, of a misdemeanor offense related to the practice of
- 9 nursing as determined on a case-by-case basis;
- 10 9. Is not currently enrolled in an alternative program;
- 11 10. Is subject to self-disclosure requirements regarding current
- 12 participation in an alternative program; and
- 13 11. Has a valid United States Social Security number.
- 14 d. All party states shall be authorized, in accordance with existing
- 15 state due process law, to take adverse action against a nurse's
- 16 multistate licensure privilege such as revocation, suspension,
- 17 probation or any other action that affects a nurse's authorization to
- 18 practice under a multistate licensure privilege, including cease and
- 19 desist actions. If a party state takes such action, it shall promptly notify
- 20 the administrator of the coordinated licensure information system. The
- 21 administrator of the coordinated licensure information system shall
- 22 promptly notify the home state of any such actions by remote states.
- 23 e. A nurse practicing in a party state must comply with the state
- 24 practice laws of the state in which the client is located at the time
- 25 service is provided. The practice of nursing is not limited to patient
- 26 care, but shall include all nursing practice as defined by the state
- 27 practice laws of the party state in which the client is located. The
- 28 practice of nursing in a party state under a multistate licensure privilege
- 29 will subject a nurse to the jurisdiction of the licensing board, the courts
- 30 and the laws of the party state in which the client is located at the time
- 31 service is provided.
- 32 f. Individuals not residing in a party state shall continue to be able
- 33 to apply for a party state's single-state license as provided under the
- 34 laws of each party state. However, the single-state license granted to
- 35 these individuals will not be recognized as granting the privilege to
- 36 practice nursing in any other party state. Nothing in this Compact shall
- 37 affect the requirements established by a party state for the issuance of a
- 38 single-state license.
- 39 g. Any nurse holding a home state multistate license, on the
- 40 effective date of this Compact, may retain and renew the multistate
- 41 license issued by the nurse's then-current home state, provided that:
- 42 1. A nurse, who changes primary state of residence after this
- 43 Compact's effective date, must meet all applicable Article III.c.
- 44 requirements to obtain a multistate license from a new home state.
- 45 2. A nurse who fails to satisfy the multistate licensure
- 46 requirements in Article III.c. due to a disqualifying event occurring
- 47 after this Compact's effective date shall be ineligible to retain or renew
- 48 a multistate license, and the nurse's multistate license shall be revoked

1 or deactivated in accordance with applicable rules adopted by the  
2 Interstate Commission of Nurse Licensure Compact Administrators  
3 (“Commission”).  
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5 ARTICLE IV: Applications for Licensure in a Party State  
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7 a. Upon application for a multistate license, the licensing board in  
8 the issuing party state shall ascertain, through the coordinated licensure  
9 information system, whether the applicant has ever held, or is the  
10 holder of, a license issued by any other state, whether there are any  
11 encumbrances on any license or multistate licensure privilege held by  
12 the applicant, whether any adverse action has been taken against any  
13 license or multistate licensure privilege held by the applicant and  
14 whether the applicant is currently participating in an alternative  
15 program.

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

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

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

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

29 d. If a nurse changes primary state of residence by moving from a  
30 party state to a non-party state, the multistate license issued by the  
31 prior home state will convert to a single-state license, valid only in the  
32 former home state.  
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34 ARTICLE V: Additional Authorities Invested in Party State Licensing  
35 Boards  
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37 a. In addition to the other powers conferred by state law, a  
38 licensing board shall have the authority to:

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

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

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

48 2. Issue cease and desist orders or impose an encumbrance on a

1 nurse's authority to practice within that party state.

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

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

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

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

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

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

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

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45 ARTICLE VI: Coordinated Licensure Information System and  
46 Exchange of Information

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48 a. All party states shall participate in a coordinated licensure

- 1 information system of all licensed registered nurses (RNs) and licensed  
2 practical/vocational nurses (LPNs/VNs). This system will include  
3 information on the licensure and disciplinary history of each nurse, as  
4 submitted by party states, to assist in the coordination of nurse licensure  
5 and enforcement efforts.
- 6 b. The Commission, in consultation with the administrator of the  
7 coordinated licensure information system, shall formulate necessary  
8 and proper procedures for the identification, collection and exchange of  
9 information under this Compact.
- 10 c. All licensing boards shall promptly report to the coordinated  
11 licensure information system any adverse action, any current significant  
12 investigative information, denials of applications (with the reasons for  
13 such denials) and nurse participation in alternative programs known to  
14 the licensing board regardless of whether such participation is deemed  
15 nonpublic or confidential under state law.
- 16 d. Current significant investigative information and participation in  
17 nonpublic or confidential alternative programs shall be transmitted  
18 through the coordinated licensure information system only to party  
19 state licensing boards.
- 20 e. Notwithstanding any other provision of law, all party state  
21 licensing boards contributing information to the coordinated licensure  
22 information system may designate information that may not be shared  
23 with non-party states or disclosed to other entities or individuals  
24 without the express permission of the contributing state.
- 25 f. Any personally identifiable information obtained from the  
26 coordinated licensure information system by a party state licensing  
27 board shall not be shared with non-party states or disclosed to other  
28 entities or individuals except to the extent permitted by the laws of the  
29 party state contributing the information.
- 30 g. Any information contributed to the coordinated licensure  
31 information system that is subsequently required to be expunged by the  
32 laws of the party state contributing that information shall also be  
33 expunged from the coordinated licensure information system.
- 34 h. The Compact administrator of each party state shall furnish a  
35 uniform data set to the Compact administrator of each other party state,  
36 which shall include, at a minimum:
- 37 1. Identifying information;
  - 38 2. Licensure data;
  - 39 3. Information related to alternative program participation; and
  - 40 4. Other information that may facilitate the administration of this  
41 Compact, as determined by Commission rules.
- 42 i. The Compact administrator of a party state shall provide all  
43 investigative documents and information requested by another party  
44 state.

1 ARTICLE VII: Establishment of the Interstate Commission of Nurse  
2 Licensure Compact Administrators  
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4 a. The party states hereby create and establish a joint public entity  
5 known as the Interstate Commission of Nurse Licensure Compact  
6 Administrators.

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

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

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

16 b. Membership, Voting and Meetings

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

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

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

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

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

39 i. Noncompliance of a party state with its obligations under this  
40 Compact;

41 ii. The employment, compensation, discipline or other personnel  
42 matters, practices or procedures related to specific employees or other  
43 matters related to the Commission's internal personnel practices and  
44 procedures;

45 iii. Current, threatened or reasonably anticipated litigation;

46 iv. Negotiation of contracts for the purchase or sale of goods,  
47 services or real estate;

48 v. Accusing any person of a crime or formally censuring any

- 1 person;
- 2 vi. Disclosure of trade secrets or commercial or financial  
3 information that is privileged or confidential;
- 4 vii. Disclosure of information of a personal nature where disclosure  
5 would constitute a clearly unwarranted invasion of personal privacy;
- 6 viii. Disclosure of investigatory records compiled for law  
7 enforcement purposes;
- 8 ix. Disclosure of information related to any reports prepared by or  
9 on behalf of the Commission for the purpose of investigation of  
10 compliance with this Compact; or
- 11 x. Matters specifically exempted from disclosure by federal or  
12 state statute.
- 13 6. If a meeting, or portion of a meeting, is closed pursuant to this  
14 provision, the Commission's legal counsel or designee shall certify that  
15 the meeting may be closed and shall reference each relevant exempting  
16 provision. The Commission shall keep minutes that fully and clearly  
17 describe all matters discussed in a meeting and shall provide a full and  
18 accurate summary of actions taken, and the reasons therefor, including  
19 a description of the views expressed. All documents considered in  
20 connection with an action shall be identified in such minutes. All  
21 minutes and documents of a closed meeting shall remain under seal,  
22 subject to release by a majority vote of the Commission or order of a  
23 court of competent jurisdiction.
- 24 c. The Commission shall, by a majority vote of the administrators,  
25 prescribe bylaws or rules to govern its conduct as may be necessary or  
26 appropriate to carry out the purposes and exercise the powers of this  
27 Compact, including but not limited to:
- 28 1. Establishing the fiscal year of the Commission;
- 29 2. Providing reasonable standards and procedures:
- 30 i. For the establishment and meetings of other committees; and
- 31 ii. Governing any general or specific delegation of any authority or  
32 function of the Commission;
- 33 3. Providing reasonable procedures for calling and conducting  
34 meetings of the Commission, ensuring reasonable advance notice of all  
35 meetings and providing an opportunity for attendance of such meetings  
36 by interested parties, with enumerated exceptions designed to protect  
37 the public's interest, the privacy of individuals, and proprietary  
38 information, including trade secrets. The Commission may meet in  
39 closed session only after a majority of the administrators vote to close a  
40 meeting in whole or in part. As soon as practicable, the Commission  
41 must make public a copy of the vote to close the meeting revealing the  
42 vote of each administrator, with no proxy votes allowed;
- 43 4. Establishing the titles, duties and authority and reasonable  
44 procedures for the election of the officers of the Commission;
- 45 5. Providing reasonable standards and procedures for the  
46 establishment of the personnel policies and programs of the  
47 Commission. Notwithstanding any civil service or other similar laws  
48 of any party state, the bylaws shall exclusively govern the personnel

- 1 policies and programs of the Commission; and
- 2 6. Providing a mechanism for winding up the operations of the  
3 Commission and the equitable disposition of any surplus funds that  
4 may exist after the termination of this Compact after the payment or  
5 reserving of all of its debts and obligations;
- 6 d. The Commission shall publish its bylaws and rules, and any  
7 amendments thereto, in a convenient form on the website of the  
8 Commission.
- 9 e. The Commission shall maintain its financial records in  
10 accordance with the bylaws.
- 11 f. The Commission shall meet and take such actions as are  
12 consistent with the provisions of this Compact and the bylaws.
- 13 g. The Commission shall have the following powers:
- 14 1. To promulgate uniform rules to facilitate and coordinate  
15 implementation and administration of this Compact. The rules shall  
16 have the force and effect of law and shall be binding in all party states;
- 17 2. To bring and prosecute legal proceedings or actions in the name  
18 of the Commission, provided that the standing of any licensing board to  
19 sue or be sued under applicable law shall not be affected;
- 20 3. To purchase and maintain insurance and bonds;
- 21 4. To borrow, accept or contract for services of personnel,  
22 including, but not limited to, employees of a party state or nonprofit  
23 organizations;
- 24 5. To cooperate with other organizations that administer state  
25 compacts related to the regulation of nursing, including but not limited  
26 to sharing administrative or staff expenses, office space or other  
27 resources;
- 28 6. To hire employees, elect or appoint officers, fix compensation,  
29 define duties, grant such individuals appropriate authority to carry out  
30 the purposes of this Compact, and to establish the Commission's  
31 personnel policies and programs relating to conflicts of interest,  
32 qualifications of personnel and other related personnel matters;
- 33 7. To accept any and all appropriate donations, grants and gifts of  
34 money, equipment, supplies, materials and services, and to receive,  
35 utilize and dispose of the same; provided that at all times the  
36 Commission shall avoid any appearance of impropriety or conflict of  
37 interest;
- 38 8. To lease, purchase, accept appropriate gifts or donations of, or  
39 otherwise to own, hold, improve or use, any property, whether real,  
40 personal or mixed; provided that at all times the Commission shall  
41 avoid any appearance of impropriety;
- 42 9. To sell, convey, mortgage, pledge, lease, exchange, abandon or  
43 otherwise dispose of any property, whether real, personal or mixed;
- 44 10. To establish a budget and make expenditures;
- 45 11. To borrow money;
- 46 12. To appoint committees, including advisory committees  
47 comprised of administrators, state nursing regulators, state legislators or  
48 their representatives, and consumer representatives, and other such

1 interested persons;

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

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

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

8 h. Financing of the Commission

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

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

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

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

29 i. Qualified Immunity, Defense and Indemnification

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

41 2. The Commission shall defend any administrator, officer,  
42 executive director, employee or representative of the Commission in  
43 any civil action seeking to impose liability arising out of any actual or  
44 alleged act, error or omission that occurred within the scope of  
45 Commission employment, duties or responsibilities, or that the person  
46 against whom the claim is made had a reasonable basis for believing  
47 occurred within the scope of Commission employment, duties or  
48 responsibilities; provided that nothing herein shall be construed to

1 prohibit that person from retaining his or her own counsel; and  
2 provided further that the actual or alleged act, error or omission did not  
3 result from that person's intentional, willful or wanton misconduct.

4 3. The Commission shall indemnify and hold harmless any  
5 administrator, officer, executive director, employee or representative of  
6 the Commission for the amount of any settlement or judgment  
7 obtained against that person arising out of any actual or alleged act,  
8 error or omission that occurred within the scope of Commission  
9 employment, duties or responsibilities, or that such person had a  
10 reasonable basis for believing occurred within the scope of Commission  
11 employment, duties or responsibilities, provided that the actual or  
12 alleged act, error or omission did not result from the intentional, willful  
13 or wanton misconduct of that person.

14

15 ARTICLE VIII: Rulemaking

16

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

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

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

28 1. On the website of the Commission; and

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

31 d. The notice of proposed rulemaking shall include:

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

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

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

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

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

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

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

48 1. Hearings shall be conducted in a manner providing each person

1 who wishes to comment a fair and reasonable opportunity to comment  
2 orally or in writing. All hearings will be recorded, and a copy will be  
3 made available upon request.

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

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

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

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

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

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

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

40

#### 41 ARTICLE IX: Oversight, Dispute Resolution and Enforcement

42

##### 43 a. Oversight

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

47 2. The Commission shall be entitled to receive service of process  
48 in any proceeding that may affect the powers, responsibilities or actions

1 of the Commission, and shall have standing to intervene in such a  
2 proceeding for all purposes. Failure to provide service of process in  
3 such proceeding to the Commission shall render a judgment or order  
4 void as to the Commission, this Compact or promulgated rules.

5 b. Default, Technical Assistance and Termination

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

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

12 ii. Provide remedial training and specific technical assistance  
13 regarding the default.

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

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

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

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

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

40 c. Dispute Resolution

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

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

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

48 i. The party states may submit the issues in dispute to an

1 arbitration panel, which will be comprised of individuals appointed by  
2 the Compact administrator in each of the affected party states, and an  
3 individual mutually agreed upon by the Compact administrators of all  
4 the party states involved in the dispute.

5 ii. The decision of a majority of the arbitrators shall be final and  
6 binding.

7 d. Enforcement

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

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

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

21

22 ARTICLE X: Effective Date, Withdrawal and Amendment

23

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

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

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

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

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

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

1 states.

2 g. Representatives of non-party states to this Compact shall be  
3 invited to participate in the activities of the Commission, on a  
4 nonvoting basis, prior to the adoption of this Compact by all states.

5

6

ARTICLE XI: Construction and Severability

7

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

20

21 2. a. A State licensed nurse whose license is under suspension  
22 or under probation by the New Jersey Board of Nursing, or who is  
23 participating in an established treatment program which is an  
24 alternative to disciplinary action, shall not practice in any other  
25 party state during the term of the suspension, probation, or  
26 participation without prior authorization from the other party state.  
27 The board may revoke the State license of a nurse under suspension,  
28 probation, or participation who practices nursing in another party  
29 state without prior authorization from that state.

30 b. The multistate licensure privilege granted by this State  
31 pursuant to the compact is subject to revocation or other  
32 disciplinary action as the result of any disciplinary action imposed  
33 by a nurse's home state.

34

35 3. This compact is intended to facilitate regulation of the  
36 practice of nursing, and it does not relieve an employer from  
37 complying with contractually or statutorily imposed obligations, or  
38 with collectively bargained agreements.

39

40 4. a. This compact shall not abrogate or supersede any  
41 provision in Title 45 of the Revised Statutes, or in any other title or  
42 chapter of law applicable to the practice of nursing in this State.

43 b. Omissions in this compact shall not be supplied by  
44 construction. In any instance of an omission from the compact, the  
45 remaining provisions of Title 45 of the Revised Statutes or other  
46 applicable statutory law, and any regulations adopted pursuant  
47 thereto, shall control.

1       5. This compact shall not abrogate or supersede any provision  
2 in Title 34 of the Revised Statutes, or in any other title or chapter of  
3 law applicable to labor practices, workforce strikes, or the  
4 resolution of labor disputes in this State.

5  
6       6. Any investigative or disciplinary powers conferred on the  
7 Attorney General, the Director of the Division of Consumer Affairs  
8 in the Department of Law and Public Safety, and the New Jersey  
9 Board of Nursing under the provisions of P.L.1978, c.73 (C.45:1-14  
10 et seq.) or other law, or under regulations adopted pursuant thereto,  
11 shall not be interpreted as being limited in any way by the terms of  
12 the compact, and shall be available in any investigation of the  
13 conduct of, or disciplinary action undertaken against, a remote state  
14 licensee practicing in New Jersey or a New Jersey home state  
15 licensee.

16  
17       7. Nothing in Article VII of the compact shall be deemed to  
18 waive or abrogate in any way any defense or immunity of a public  
19 entity or public employee under the common law or statutory law  
20 including, but not limited to, the "New Jersey Tort Claims Act,"  
21 N.J.S.59:1-1 et seq.

22  
23       8. One year after New Jersey becomes a party to the compact, as  
24 provided by this act, the Attorney General shall submit a report to  
25 the Governor and, pursuant to section 2 of P.L.1991, c.164  
26 (C.52:14-19.1), to the Legislature, evaluating whether the State's  
27 continued participation in the compact is in the best interest of the  
28 health, safety, and welfare of its citizens. At a minimum, the report  
29 shall: (1) describe the beneficial and detrimental effects, evidenced  
30 during the preceding year, which have resulted from the State's  
31 participation in the compact; (2) describe any potential long-term  
32 effects that have not yet been experienced, but which are likely to  
33 result from the State's continued participation in the compact; (3)  
34 indicate whether any other party state has changed its licensure  
35 requirements in the preceding year to make them less stringent than  
36 the requirements in this State; and (4) provide a recommendation as  
37 to whether the State should remain a party to the compact.

38       b. The Legislature may withdraw this State from the compact if  
39 the report submitted by the Attorney General, pursuant to  
40 subsection a. of this section, indicates that another party state has  
41 changed its licensure requirements to make them substantially lower  
42 than the requirements of this State, or that withdrawal from the  
43 compact is in the best interests of the health, safety, and welfare of  
44 the citizens of this State.

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46       9. This act shall take effect immediately.

STATEMENT

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This bill will enter New Jersey into the Nurse Licensure Compact (NLC) – a multistate compact that establishes a mutual recognition system for the licensure of registered professional nurses and licensed practical nurses. Under a mutual recognition system, a nurse only needs to obtain one license from the nurse's state of residence in order to be permitted to practice nursing in any other state that is a party to the compact, provided that the nurse complies with the state practice laws of the state in which the patient is located at the time that care is rendered. Currently, a nurse is required to be licensed in, and by, each state in which the nurse chooses to practice.

Under the NLC, a nurse who applies for licensure will be required to meet the qualifications for licensure and license renewal that have been established in the nurse's state of residence. Although a nurse may be licensed in one or more states that are not a party to the compact, a nurse may only be licensed in one state that is a party to the compact. The NLC will authorize a state that is a party to the compact to limit, suspend, or revoke the multistate licensure privilege of any nurse to practice in that state, and to take any other actions under the applicable state laws that may be necessary to protect the health and safety of the citizens of the party state.

The NLC will also establish a coordinated licensure information system that will include a database on the licensure and disciplinary history of all nurses licensed in the party states. The party states will be required to report to the coordinated system all adverse actions against nurses, including actions against multistate licensure privileges, any current significant investigative information yet to result in an adverse action, and denials of applications and the reasons therefor. This information will be shared with party states unless the state submitting the information designates information that may not be shared or disclosed without the permission of the contributing state. The coordinated licensure information system is to be administered by a nonprofit organization composed of and controlled by state nurse licensing boards.

The NLC will also establish the Interstate Commission of Nurse Licensure Compact Administrators as a joint public instrumentality of the party states. However, nothing in the compact is to be construed as a waiver of sovereign immunity. Each party state will be required to have its compact administrator, which is to be the head of the state licensing board, or that individual's designee, participate as a member of the commission. The commission will be required to meet at least once a year.

The compact grants the commission broad powers to: (1) promulgate uniform rules, which will have the effect of law, in order to facilitate and coordinate implementation and administration of the compact in the party states; (2) bring and prosecute legal proceedings in the name of the commission; (3) appoint advisory and other

1 committees comprised of administrators, state nursing regulators, state  
2 legislators, consumer representatives, and other interested parties; and  
3 (4) cooperate with other organizations that administer state compacts  
4 related to the practice of nursing. The commission will further be  
5 authorized to identify defaults in the performance of a party state in  
6 meeting its obligations or responsibilities under the compact; to  
7 provide training and technical assistance to a party state in order to  
8 assist the party state in curing any defaults; and to terminate a  
9 defaulting party state's membership in the compact if all means of  
10 securing compliance have been exhausted. The compact also  
11 authorizes the commission to levy, and collect from each party state,  
12 an annual assessment to cover the cost of commission operations,  
13 activities, and staff. All of the administrators, officers, employees,  
14 representatives, and the executive director of the commission will be  
15 immune from liability, either personally or in their official capacities,  
16 for any civil claims arising out of any actual or alleged act, error, or  
17 omission that occurred, or that the accused had a reasonable basis for  
18 believing had occurred, within the scope of commission employment,  
19 duties, or responsibilities, except in the case of intentional, willful, or  
20 wanton misconduct.

21 Nothing in the NLC will abrogate or supersede the provisions of  
22 Title 45 of the Revised Statutes or any other title or chapter of law  
23 applicable to the practice of nursing in this State. In any instance of an  
24 omission from the compact, the provisions of Title 45 of the Revised  
25 Statutes or other applicable statutory or regulatory law will be  
26 controlling. Nothing in the NLC will abrogate or supersede the  
27 provisions in Title 34 of the Revised Statutes, or in any other title or  
28 chapter of law applicable to labor practices, workforce strikes, or the  
29 resolution of labor disputes in this State.

30 The bill requires the Attorney General to submit a report to the  
31 Governor and to the Legislature, one year after New Jersey becomes a  
32 party to the compact, evaluating whether the State's continued  
33 participation in the compact is in the best interest of the health, safety,  
34 and welfare of its citizens. At a minimum, the report is to: (1) describe  
35 the beneficial and detrimental effects resulting from the State's  
36 participation in the compact; (2) describe any potential long-term  
37 effects that are likely to result from the State's continued participation  
38 in the compact; (3) indicate whether any other party state has changed  
39 its licensure requirements in the preceding year to make them less  
40 stringent than the requirements in New Jersey; and (4) provide a  
41 recommendation as to whether the State should remain a party to the  
42 compact. The Legislature will be permitted to withdraw the State from  
43 the compact if the Attorney General's report indicates that another  
44 party state has changed its licensure requirements to make them  
45 substantially lower than the requirements of New Jersey, or that  
46 withdrawal from the compact is in the best interests of the health,  
47 safety, and welfare of the citizens of New Jersey.

48 As of October 2015, 25 states, including Maryland and Delaware,

1 have enacted legislation agreeing to participate in the NLC. The NLC  
2 provides that it will become effective and binding on the party states  
3 either on the date that the NLC is enacted into law by at least 26 states,  
4 or on December 31, 2018, whichever is earlier.

5 Although New Jersey entered into a prior version of the multistate  
6 NLC through the enactment of P.L.2001, c.340 (C.45:11A-1 et seq.),  
7 this law was temporary in nature and expired on January 1, 2007. The  
8 National Council of State Boards of Nursing has since adopted a  
9 revised version of the compact. Accordingly, the bill incorporates the  
10 updated provisions of the NLC, as adopted by the National Council of  
11 State Boards of Nursing on May 4, 2015.