

SENATE, No. 954

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED JANUARY 16, 2018

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

Co-Sponsored by:

Senator Diegnan

SYNOPSIS

Enters New Jersey in multistate Nurse Licensure Compact.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/11/2018)

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 state that authorizes practice only within the issuing state and does not

1 include a multistate licensure privilege to practice in any other party
2 state.

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

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

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12 ARTICLE III: General Provisions and Jurisdiction

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

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

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

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

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

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

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

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

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

46 6. Has submitted, in connection with an application for initial
47 licensure or licensure by endorsement, fingerprints or other biometric
48 data for the purpose of obtaining criminal history record information
49 from the Federal Bureau of Investigation and the agency responsible for

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

1 ARTICLE IV: Applications for Licensure in a Party State

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3 a. Upon application for a multistate license, the licensing board in
4 the issuing party state shall ascertain, through the coordinated licensure
5 information system, whether the applicant has ever held, or is the
6 holder of, a license issued by any other state, whether there are any
7 encumbrances on any license or multistate licensure privilege held by
8 the applicant, whether any adverse action has been taken against any
9 license or multistate licensure privilege held by the applicant and
10 whether the applicant is currently participating in an alternative
11 program.

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

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

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

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

25 d. If a nurse changes primary state of residence by moving from a
26 party state to a non-party state, the multistate license issued by the
27 prior home state will convert to a single-state license, valid only in the
28 former home state.

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30 ARTICLE V: Additional Authorities Invested in Party State Licensing
31 Boards

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

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

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

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

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

46 3. Complete any pending investigations of a nurse who changes
47 primary state of residence during the course of such investigations. The
48 licensing board shall also have the authority to take appropriate
49 action(s) and shall promptly report the conclusions of such

1 investigations to the administrator of the coordinated licensure
2 information system. The administrator of the coordinated licensure
3 information system shall promptly notify the new home state of any
4 such actions.

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

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

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

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

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

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

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40 ARTICLE VI: Coordinated Licensure Information System and
41 Exchange of Information

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43 a. All party states shall participate in a coordinated licensure
44 information system of all licensed registered nurses (RNs) and licensed
45 practical/vocational nurses (LPNs/VNs). This system will include
46 information on the licensure and disciplinary history of each nurse, as
47 submitted by party states, to assist in the coordination of nurse licensure
48 and enforcement efforts.

49 b. The Commission, in consultation with the administrator of the

1 coordinated licensure information system, shall formulate necessary
2 and proper procedures for the identification, collection and exchange of
3 information under this Compact.

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

10 d. Current significant investigative information and participation in
11 nonpublic or confidential alternative programs shall be transmitted
12 through the coordinated licensure information system only to party
13 state licensing boards.

14 e. Notwithstanding any other provision of law, all party state
15 licensing boards contributing information to the coordinated licensure
16 information system may designate information that may not be shared
17 with non-party states or disclosed to other entities or individuals
18 without the express permission of the contributing state.

19 f. Any personally identifiable information obtained from the
20 coordinated licensure information system by a party state licensing
21 board shall not be shared with non-party states or disclosed to other
22 entities or individuals except to the extent permitted by the laws of the
23 party state contributing the information.

24 g. Any information contributed to the coordinated licensure
25 information system that is subsequently required to be expunged by the
26 laws of the party state contributing that information shall also be
27 expunged from the coordinated licensure information system.

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

- 31 1. Identifying information;
- 32 2. Licensure data;
- 33 3. Information related to alternative program participation; and
- 34 4. Other information that may facilitate the administration of this
35 Compact, as determined by Commission rules.

36 i. The Compact administrator of a party state shall provide all
37 investigative documents and information requested by another party
38 state.

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40 ARTICLE VII: Establishment of the Interstate Commission of Nurse
41 Licensure Compact Administrators

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43 a. The party states hereby create and establish a joint public entity
44 known as the Interstate Commission of Nurse Licensure Compact
45 Administrators.

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

47 2. Venue is proper, and judicial proceedings by or against the
48 Commission shall be brought solely and exclusively, in a court of
49 competent jurisdiction where the principal office of the Commission is

1 located. The Commission may waive venue and jurisdictional
2 defenses to the extent it adopts or consents to participate in alternative
3 dispute resolution proceedings.

4 3. Nothing in this Compact shall be construed to be a waiver of
5 sovereign immunity.

6 b. Membership, Voting and Meetings

7 1. Each party state shall have and be limited to one administrator.
8 The head of the state licensing board or designee shall be the
9 administrator of this Compact for each party state. Any administrator
10 may be removed or suspended from office as provided by the law of the
11 state from which the Administrator is appointed. Any vacancy
12 occurring in the Commission shall be filled in accordance with the laws
13 of the party state in which the vacancy exists.

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

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

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

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

29 i. Noncompliance of a party state with its obligations under this
30 Compact;

31 ii. The employment, compensation, discipline or other personnel
32 matters, practices or procedures related to specific employees or other
33 matters related to the Commission's internal personnel practices and
34 procedures;

35 iii. Current, threatened or reasonably anticipated litigation;

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

38 v. Accusing any person of a crime or formally censuring any
39 person;

40 vi. Disclosure of trade secrets or commercial or financial
41 information that is privileged or confidential;

42 vii. Disclosure of information of a personal nature where disclosure
43 would constitute a clearly unwarranted invasion of personal privacy;

44 viii. Disclosure of investigatory records compiled for law
45 enforcement purposes;

46 ix. Disclosure of information related to any reports prepared by or
47 on behalf of the Commission for the purpose of investigation of
48 compliance with this Compact; or

49 x. Matters specifically exempted from disclosure by federal or

1 state statute.

2 6. If a meeting, or portion of a meeting, is closed pursuant to this
3 provision, the Commission's legal counsel or designee shall certify that
4 the meeting may be closed and shall reference each relevant exempting
5 provision. The Commission shall keep minutes that fully and clearly
6 describe all matters discussed in a meeting and shall provide a full and
7 accurate summary of actions taken, and the reasons therefor, including
8 a description of the views expressed. All documents considered in
9 connection with an action shall be identified in such minutes. All
10 minutes and documents of a closed meeting shall remain under seal,
11 subject to release by a majority vote of the Commission or order of a
12 court of competent jurisdiction.

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

17 1. Establishing the fiscal year of the Commission;

18 2. Providing reasonable standards and procedures:

19 i. For the establishment and meetings of other committees; and

20 ii. Governing any general or specific delegation of any authority or
21 function of the Commission;

22 3. Providing reasonable procedures for calling and conducting
23 meetings of the Commission, ensuring reasonable advance notice of all
24 meetings and providing an opportunity for attendance of such meetings
25 by interested parties, with enumerated exceptions designed to protect
26 the public's interest, the privacy of individuals, and proprietary
27 information, including trade secrets. The Commission may meet in
28 closed session only after a majority of the administrators vote to close a
29 meeting in whole or in part. As soon as practicable, the Commission
30 must make public a copy of the vote to close the meeting revealing the
31 vote of each administrator, with no proxy votes allowed;

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

34 5. Providing reasonable standards and procedures for the
35 establishment of the personnel policies and programs of the
36 Commission. Notwithstanding any civil service or other similar laws
37 of any party state, the bylaws shall exclusively govern the personnel
38 policies and programs of the Commission; and

39 6. Providing a mechanism for winding up the operations of the
40 Commission and the equitable disposition of any surplus funds that
41 may exist after the termination of this Compact after the payment or
42 reserving of all of its debts and obligations;

43 d. The Commission shall publish its bylaws and rules, and any
44 amendments thereto, in a convenient form on the website of the
45 Commission.

46 e. The Commission shall maintain its financial records in
47 accordance with the bylaws.

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

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

1 activities and staff in its annual budget as approved each year. The
2 aggregate annual assessment amount, if any, shall be allocated based
3 upon a formula to be determined by the Commission, which shall
4 promulgate a rule that is binding upon all party states.

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

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

16 i. Qualified Immunity, Defense and Indemnification

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

28 2. The Commission shall defend any administrator, officer,
29 executive director, employee or representative of the Commission in
30 any civil action seeking to impose liability arising out of any actual or
31 alleged act, error or omission that occurred within the scope of
32 Commission employment, duties or responsibilities, or that the person
33 against whom the claim is made had a reasonable basis for believing
34 occurred within the scope of Commission employment, duties or
35 responsibilities; provided that nothing herein shall be construed to
36 prohibit that person from retaining his or her own counsel; and
37 provided further that the actual or alleged act, error or omission did not
38 result from that person's intentional, willful or wanton misconduct.

39 3. The Commission shall indemnify and hold harmless any
40 administrator, officer, executive director, employee or representative of
41 the Commission for the amount of any settlement or judgment
42 obtained against that person arising out of any actual or alleged act,
43 error or omission that occurred within the scope of Commission
44 employment, duties or responsibilities, or that such person had a
45 reasonable basis for believing occurred within the scope of Commission
46 employment, duties or responsibilities, provided that the actual or
47 alleged act, error or omission did not result from the intentional, willful
48 or wanton misconduct of that person.

1 ARTICLE VIII: Rulemaking

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

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

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

14 1. On the website of the Commission; and

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

17 d. The notice of proposed rulemaking shall include:

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

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

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

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

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

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

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

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

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

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

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

46 j. The Commission shall, by majority vote of all administrators,
47 take final action on the proposed rule and shall determine the effective
48 date of the rule, if any, based on the rulemaking record and the full text
49 of the rule.

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

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

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

25
26 ARTICLE IX: Oversight, Dispute Resolution and Enforcement

27
28 a. Oversight

29 1. Each party state shall enforce this Compact and take all actions
30 necessary and appropriate to effectuate this Compact's purposes and
31 intent.

32 2. The Commission shall be entitled to receive service of process
33 in any proceeding that may affect the powers, responsibilities or actions
34 of the Commission, and shall have standing to intervene in such a
35 proceeding for all purposes. Failure to provide service of process in
36 such proceeding to the Commission shall render a judgment or order
37 void as to the Commission, this Compact or promulgated rules.

38 b. Default, Technical Assistance and Termination

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

- 42 i. Provide written notice to the defaulting state and other party
43 states of the nature of the default, the proposed means of curing the
44 default or any other action to be taken by the Commission; and
- 45 ii. Provide remedial training and specific technical assistance
46 regarding the default.

47 2. If a state in default fails to cure the default, the defaulting state's
48 membership in this Compact may be terminated upon an affirmative
49 vote of a majority of the administrators, and all rights, privileges and

1 benefits conferred by this Compact may be terminated on the effective
2 date of termination. A cure of the default does not relieve the
3 offending state of obligations or liabilities incurred during the period of
4 default.

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

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

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

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

24 c. Dispute Resolution

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

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

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

32 i. The party states may submit the issues in dispute to an
33 arbitration panel, which will be comprised of individuals appointed by
34 the Compact administrator in each of the affected party states, and an
35 individual mutually agreed upon by the Compact administrators of all
36 the party states involved in the dispute.

37 ii. The decision of a majority of the arbitrators shall be final and
38 binding.

39 d. Enforcement

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

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

1 3. The remedies herein shall not be the exclusive remedies of the
2 Commission. The Commission may pursue any other remedies
3 available under federal or state law.
4

5 ARTICLE X: Effective Date, Withdrawal and Amendment
6

7 a. This Compact shall become effective and binding on the
8 earlier of the date of legislative enactment of this Compact into law by
9 no less than twenty-six (26) states or December 31, 2018. All party
10 states to this Compact, that also were parties to the prior Nurse
11 Licensure Compact, superseded by this Compact, (“Prior Compact”),
12 shall be deemed to have withdrawn from said Prior Compact within
13 six (6) months after the effective date of this Compact.

14 b. Each party state to this Compact shall continue to recognize a
15 nurse’s multistate licensure privilege to practice in that party state
16 issued under the Prior Compact until such party state has withdrawn
17 from the Prior Compact.

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

21 d. A party state’s withdrawal or termination shall not affect the
22 continuing requirement of the withdrawing or terminated state’s
23 licensing board to report adverse actions and significant investigations
24 occurring prior to the effective date of such withdrawal or termination.

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

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

33 g. Representatives of non-party states to this Compact shall be
34 invited to participate in the activities of the Commission, on a
35 nonvoting basis, prior to the adoption of this Compact by all states.
36

37 ARTICLE XI: Construction and Severability
38

39 This Compact shall be liberally construed so as to effectuate the
40 purposes thereof. The provisions of this Compact shall be severable,
41 and if any phrase, clause, sentence or provision of this Compact is
42 declared to be contrary to the constitution of any party state or of the
43 United States, or if the applicability thereof to any government, agency,
44 person or circumstance is held to be invalid, the validity of the
45 remainder of this Compact and the applicability thereof to any
46 government, agency, person or circumstance shall not be affected
47 thereby. If this Compact shall be held to be contrary to the constitution
48 of any party state, this Compact shall remain in full force and effect as
49 to the remaining party states and in full force and effect as to the party

1 state affected as to all severable matters.

2

3 2. a. A State licensed nurse whose license is under suspension
4 or under probation by the New Jersey Board of Nursing, or who is
5 participating in an established treatment program which is an
6 alternative to disciplinary action, shall not practice in any other
7 party state during the term of the suspension, probation, or
8 participation without prior authorization from the other party state.
9 The board may revoke the State license of a nurse under suspension,
10 probation, or participation who practices nursing in another party
11 state without prior authorization from that state.

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

16

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

21

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

25 b. If there is an irreconcilable conflict between this compact
26 and chapter 11 of Title 45 of the Revised Statutes, the compact shall
27 control.

28 c. Omissions in this compact shall not be supplied by
29 construction. In any instance of an omission from the compact, the
30 remaining provisions of Title 45 of the Revised Statutes or other
31 applicable statutory law, and any regulations adopted pursuant
32 thereto, shall control.

33

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

38

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

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

6
7 8. a. One year after New Jersey becomes a party to the
8 compact, as provided by this act, the Attorney General shall submit
9 a report to the Governor and, pursuant to section 2 of P.L.1991,
10 c.164 (C.52:14-19.1), to the Legislature, evaluating whether the
11 State's continued participation in the compact is in the best interest
12 of the health, safety, and welfare of its citizens. At a minimum, the
13 report shall: (1) describe the beneficial and detrimental effects,
14 evidenced during the preceding year, which have resulted from the
15 State's participation in the compact; (2) describe any potential long-
16 term effects that have not yet been experienced, but which are likely
17 to result from the State's continued participation in the compact; (3)
18 indicate whether any other party state has changed its licensure
19 requirements in the preceding year to make them less stringent than
20 the requirements in this State; and (4) provide a recommendation as
21 to whether the State should remain a party to the compact.

22 b. The Legislature may withdraw this State from the compact if
23 the report submitted by the Attorney General, pursuant to
24 subsection a. of this section, indicates that another party state has
25 changed its licensure requirements to make them substantially lower
26 than the requirements of this State, or that withdrawal from the
27 compact is in the best interests of the health, safety, and welfare of
28 the citizens of this State.

29
30 9. This act shall take effect immediately.

31

32

33

STATEMENT

34

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

46 Under the NLC, a nurse who applies for licensure would be
47 required to meet the qualifications for licensure and license renewal
48 that have been established in the nurse's state of residence. While a
49 nurse may be licensed in any state or states that are not parties to

1 the compact, a nurse may only be licensed in one state that is a
2 party to the compact. The NLC would authorize a state that is a
3 party to the compact to limit, suspend, or revoke the multistate
4 licensure privilege of any nurse to practice in that state, and to take
5 any other actions under the applicable state laws that may be
6 necessary to protect the health and safety of the citizens of the party
7 state.

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

22 The NLC would also establish the Interstate Commission of
23 Nurse Licensure Compact Administrators as a joint public
24 instrumentality of the party states. However, nothing in the
25 compact is to be construed as a waiver of sovereign immunity.
26 Each party state will be required to have its compact administrator –
27 the head of the state licensing board, or their designee – participate
28 as a member of the commission. The commission will be required
29 to meet at least once a year.

30 The compact grants the commission broad powers to: (1)
31 promulgate uniform rules – having the effect of law – in order to
32 facilitate and coordinate implementation and administration of the
33 compact in the party states; (2) bring and prosecute legal
34 proceedings in the name of the commission; (3) appoint advisory
35 and other committees comprised of administrators, state nursing
36 regulators, state legislators, consumer representatives, and other
37 interested parties; and (4) cooperate with other organizations that
38 administer state compacts related to the practice of nursing. The
39 commission would further be authorized to identify defaults in the
40 performance of a party state in meeting its obligations or
41 responsibilities under the compact; to provide training and technical
42 assistance to a party state, in order to assist the party state in curing
43 any defaults; and to terminate a defaulting party state's membership
44 in the compact if all means of securing compliance have been
45 exhausted. The compact also authorizes the commission to levy,
46 and collect from each party state, an annual assessment that would
47 cover the cost of commission operations, activities, and staff. All
48 of the administrators, officers, employees, representatives, and the
49 executive director of the commission would be immune from

1 liability, either personally or in their official capacity, for any civil
2 claims arising out of any actual or alleged act, error, or omission
3 that occurred (or that the accused had a reasonable basis for
4 believing had occurred) within the scope of commission
5 employment, duties, or responsibilities, except in the case of
6 intentional, willful, or wanton misconduct.

7 Nothing in the NLC would abrogate or supersede the provisions
8 in Title 45 of the Revised Statutes, or in any other title or chapter of
9 law applicable to the practice of nursing in this State. In any
10 instance of an omission from the compact, the provisions of Title 45
11 of the Revised Statutes or other applicable statutory law, and any
12 regulations adopted pursuant thereto, would be controlling.
13 However, if there is an irreconcilable conflict between the NLC and
14 chapter 11 of Title 45 of the Revised Statutes (which pertains to the
15 practice of nursing), the provisions of the compact would control.
16 Nothing in the NLC would abrogate or supersede the provisions in
17 Title 34 of the Revised Statutes, or in any other title or chapter of
18 law applicable to labor practices, workforce strikes, or the
19 resolution of labor disputes in this State. Nothing in the compact
20 will be deemed to waive or abrogate in any way any defense or
21 immunity of a public entity or public employee under the common
22 law or statutory law.

23 The NLC is intended to address the expanded mobility of nurses
24 and the use of advanced communication technologies (telemedicine)
25 by nurses, which each necessitate greater coordination and
26 cooperation among states in the areas of nurse licensure and
27 regulation. The NLC is also intended to facilitate the exchange of
28 information between states in the area of nurse regulation,
29 investigation, and adverse actions. In July 2017, North Carolina
30 became the 26th state to enact legislation agreeing to participate in
31 the NLC, making the compact effective and binding on the party
32 states, which include Maryland and Delaware.

33 Although New Jersey entered into a prior version of the
34 multistate NLC through the enactment of P.L.2001, c.340
35 (C.45:11A-1 et seq.), this law was only temporary in nature, and it
36 expired on January 1, 2007. The National Council of State Boards
37 of Nursing has adopted a revised version of the compact.
38 Accordingly, the bill incorporates the updated provisions of the
39 NLC, as adopted by the National Council of State Boards of
40 Nursing on May 4, 2015.

41 The bill would require that the Attorney General, one year after
42 New Jersey becomes a party to the compact, submit a report to the
43 Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
44 19.1), to the Legislature, indicating whether the State's continued
45 participation in the compact is in the best interest of the health,
46 safety, and welfare of its citizens. At a minimum, the report will be
47 required to: (1) describe the beneficial and detrimental effects,
48 evidenced during the preceding year, which have resulted from the
49 State's participation in the compact; (2) describe any potential long-

1 term effects that have not yet been experienced, but which are likely
2 to result from the State's continued participation in the compact; (3)
3 indicate whether any other party state has changed its licensure
4 requirements in the preceding year to make them less stringent than
5 the requirements in this State; and (4) provide a recommendation as
6 to whether the State should remain a party to the compact.

7 The bill authorizes the Legislature to withdraw New Jersey from
8 the compact if the report submitted by the Attorney General,
9 pursuant to the bill's provisions, indicates that a party state has
10 changed its licensure requirements to make them substantially lower
11 than the requirements of this State, or that withdrawal from the
12 compact is in the best interests of the health, safety, and welfare of
13 the citizens of New Jersey.