

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H.B. 338
Mar 14, 2017
HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH10128-MGqq-57 (02/21)

Short Title: Establish New Nurse Licensure Compact. (Local)

Sponsors: Representatives Szoka, Adcock, Boswell, and Williams (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT REPEALING AND REPLACING NORTH CAROLINA'S CURRENT NURSE
3 LICENSURE COMPACT.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 90-171.80 through G.S. 90-171.94 are repealed.

6 **SECTION 2.** Article 9G of Chapter 90 of the General Statutes is amended by adding
7 new sections to read:

8 **"§ 90-171.95. Findings and declaration of purpose.**

9 (a) The party states make the following findings:

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

25 (b) The general purposes of this Compact are as follows:

- 26 (1) Facilitate the states' responsibility to protect the public's health and safety.
27 (2) Ensure and encourage the cooperation of party states in the areas of nurse
28 licensure and regulation.
29 (3) Facilitate the exchange of information between party states in the areas of nurse
30 regulation, investigation, and adverse actions.
31 (4) Promote compliance with the laws governing the practice of nursing in each
32 jurisdiction.
33 (5) Invest all party states with the authority to hold a nurse accountable for meeting
34 all state practice laws in the state in which the patient is located at the time care
35 is rendered through the mutual recognition of party state licenses.
36 (6) Decrease redundancies in the consideration and issuance of nurse licenses.



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

3 **"§ 90-171.95A. Definitions.**

4 As used in this Compact:

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

11 (b) Alternative Program. – A nondisciplinary monitoring program approved by a licensing
12 board.

13 (c) Coordinated Licensure Information System. – An integrated process for collecting,
14 storing, and sharing information on nurse licensure and enforcement activities related to nurse
15 licensure laws that is administered by a nonprofit organization composed of and controlled by
16 licensing boards.

17 (d) Current Significant Investigative Information. – Both of the following:

18 (1) Investigative information that a licensing board, after a preliminary inquiry that
19 includes notification and an opportunity for the nurse to respond, if required by
20 state law, has reason to believe is not groundless and, if proved true, would
21 indicate more than a minor infraction.

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

25 (e) Encumbrance. – A revocation or suspension of, or any limitation on, the full and
26 unrestricted practice of nursing imposed by a licensing board.

27 (f) Home State. – The party state which is the nurse's primary state of residence.

28 (g) Licensing Board. – A party state's regulatory body responsible for issuing nurse
29 licenses.

30 (h) Multistate License. – A license to practice as a registered or a licensed
31 practical/vocational nurse (LPN/VN) issued by a home state licensing board that authorizes the
32 licensed nurse to practice in all party states under a multistate licensure privilege.

33 (i) Multistate Licensure Privilege. – A legal authorization associated with a multistate
34 license permitting the practice of nursing as either a registered nurse (RN) or LPN/VN in a remote
35 state.

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

37 (k) Party State. – Any state that has adopted this Compact.

38 (l) Remote State. – A party state, other than the home state.

39 (m) Single-State License. – A nurse license issued by a party state that authorizes practice
40 only within the issuing state and does not include a multistate licensure privilege to practice in any
41 other party state.

42 (n) State. – A state, territory, or possession of the United States and the District of
43 Columbia.

44 (o) State Practice Laws. – A party state's laws, rules, and regulations that govern the
45 practice of nursing, define the scope of nursing practice, and create the methods and grounds for
46 imposing discipline. "State practice laws" do not include requirements necessary to obtain and
47 retain a license, except for qualifications or requirements of the home state.

48 **"§ 90-171.95B. General provisions and jurisdiction.**

49 (a) A multistate license to practice registered or licensed practical/vocational nursing
50 issued by a home state to a resident in that state will be recognized by each party state as

1 authorizing a nurse to practice as a registered nurse (RN) or as a licensed practical/vocational
2 nurse (LPN/VN), under a multistate licensure privilege, in each party state.

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

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

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

12 (2) Either of the following:

13 a. Has graduated or is eligible to graduate from a licensing board-approved
14 RN or LPN/VN prelicensure education program.

15 b. Has graduated from a foreign RN or LPN/VN pre-licensure education
16 program that (a) has been approved by the authorized accrediting body
17 in the applicable country and (b) has been verified by an independent
18 credentials review agency to be comparable to a licensing
19 board-approved pre-licensure education program.

20 (3) Has, if a graduate of a foreign pre-licensure education program not taught in
21 English or if English is not the individual's native language, successfully passed
22 an English proficiency examination that includes the components of reading,
23 speaking, writing, and listening.

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

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

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

32 (7) Has not been convicted or found guilty, or has entered into an agreed
33 disposition, of a felony offense under applicable state or federal criminal law.

34 (8) Has not been convicted or found guilty, or has entered into an agreed
35 disposition, of a misdemeanor offense related to the practice of nursing as
36 determined on a case-by-case basis.

37 (9) Is not currently enrolled in an alternative program.

38 (10) Is subject to self-disclosure requirements regarding current participation in an
39 alternative program.

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

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

48 (e) A nurse practicing in a party state must comply with the state practice laws of the state
49 in which the client is located at the time service is provided. The practice of nursing is not limited
50 to patient care but shall include all nursing practice as defined by the state practice laws of the
51 party state in which the client is located. The practice of nursing in a party state under a multistate

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

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

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

11 (1) A nurse, who changes primary state of residence after this Compact's effective
12 date, must meet all applicable requirements in subsection (c) of this section to
13 obtain a multistate license from a new home state.

14 (2) A nurse who fails to satisfy the multistate licensure requirements in subsection
15 (c) of this section due to a disqualifying event occurring after this Compact's
16 effective date shall be ineligible to retain or renew a multistate license, and the
17 nurse's multistate license shall be revoked or deactivated in accordance with
18 applicable rules adopted by the Interstate Commission of Nurse Licensure
19 Compact Administrators ("Commission").

20 **"§ 90-171.95C. Applications for licensure in a party state.**

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

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

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

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

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

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

43 **"§ 90-171.95D. Additional authorities invested in party state licensing boards.**

44 (a) In addition to the other powers conferred by state law, a licensing board may do all of
45 the following:

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

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

50 b. For purposes of taking adverse action, the home state licensing board
51 shall give the same priority and effect to reported conduct received from

1 a remote state as it would if such conduct had occurred within the home
2 state. In so doing, the home state shall apply its own state laws to
3 determine appropriate action.

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

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

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

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

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

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

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

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

43 **"§ 90-171.95E. Coordinated licensure information system and exchange of information.**

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

48 (b) The Commission, in consultation with the administrator of the coordinated licensure
49 information system, shall formulate necessary and proper procedures for the identification,
50 collection, and exchange of information under this Compact.

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

6 (d) Current significant investigative information and participation in nonpublic or
7 confidential alternative programs shall be transmitted through the coordinated licensure
8 information system only to party state licensing boards.

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

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

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

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

23 (1) Identifying information.

24 (2) Licensure data.

25 (3) Information related to alternative program participation.

26 (4) Other information that may facilitate the administration of this Compact, as
27 determined by Commission rules.

28 (i) The Compact administrator of a party state shall provide all investigative documents
29 and information requested by another party state.

30 **"§ 90-171.95F. Establishment of the Interstate Commission of Nurse Licensure Compact**
31 **Administrators.**

32 (a) Creation. – The party states hereby create and establish a joint public entity known as
33 the Interstate Commission of Nurse Licensure Compact Administrators.

34 (1) The Commission is an instrumentality of the party states.

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

40 (3) Nothing in this Compact shall be construed to be a waiver of sovereign
41 immunity.

42 (b) Membership, Voting and Meetings. –

43 (1) Each party state shall have and be limited to one administrator. The head of the
44 state licensing board or designee shall be the administrator of this Compact for
45 each party state. Any administrator may be removed or suspended from office
46 as provided by the law of the state from which the Administrator is appointed.
47 Any vacancy occurring in the Commission shall be filled in accordance with
48 the laws of the party state in which the vacancy exists.

49 (2) Each administrator shall be entitled to one vote with regard to the promulgation
50 of rules and creation of bylaws and shall otherwise have an opportunity to
51 participate in the business and affairs of the Commission. An administrator

- 1 shall vote in person or by such other means as provided in the bylaws. The
2 bylaws may provide for an administrator's participation in meetings by
3 telephone or other means of communication.
- 4 (3) The Commission shall meet at least once during each calendar year. Additional
5 meetings shall be held as set forth in the bylaws or rules of the commission.
- 6 (4) All meetings shall be open to the public, and public notice of meetings shall be
7 given in the same manner as required under the rule-making provisions in
8 G.S. 90-171.95G.
- 9 (5) The Commission may convene in a closed, nonpublic meeting if the
10 Commission must discuss any of the following:
- 11 a. Noncompliance of a party state with its obligations under this Compact.
12 b. The employment, compensation, discipline or other personnel matters,
13 practices or procedures related to specific employees, or other matters
14 related to the Commission's internal personnel practices and procedures.
15 c. Current, threatened, or reasonably anticipated litigation.
16 d. Negotiation of contracts for the purchase or sale of goods, services, or
17 real estate.
18 e. Accusing any person of a crime or formally censuring any person.
19 f. Disclosure of trade secrets or commercial or financial information that
20 is privileged or confidential.
21 g. Disclosure of information of a personal nature where disclosure would
22 constitute a clearly unwarranted invasion of personal privacy.
23 h Disclosure of investigatory records compiled for law enforcement
24 purposes.
25 i. Disclosure of information related to any reports prepared by or on
26 behalf of the Commission for the purpose of investigation of
27 compliance with this Compact.
28 j. Matters specifically exempted from disclosure by federal or state
29 statute.
- 30 (6) If a meeting, or portion of a meeting, is closed pursuant to this provision, the
31 Commission's legal counsel or designee shall certify that the meeting may be
32 closed and shall reference each relevant exempting provision. The Commission
33 shall keep minutes that fully and clearly describe all matters discussed in a
34 meeting and shall provide a full and accurate summary of actions taken, and the
35 reasons therefor, including a description of the views expressed. All documents
36 considered in connection with an action shall be identified in such minutes. All
37 minutes and documents of a closed meeting shall remain under seal, subject to
38 release by a majority vote of the Commission or order of a court of competent
39 jurisdiction.
- 40 (c) Bylaws. – The Commission shall, by a majority vote of the administrators, prescribe
41 bylaws or rules to govern its conduct as may be necessary or appropriate to carry out the purposes
42 and exercise the powers of this Compact, including the following:
- 43 (1) Establishing the fiscal year of the Commission.
44 (2) Providing reasonable standards and procedures for both of the following:
45 a. Establishment and meetings of other committees.
46 b. Governing any general or specific delegation of any authority or
47 function of the Commission.
- 48 (3) Providing reasonable procedures for calling and conducting meetings of the
49 Commission, ensuring reasonable advance notice of all meetings and providing
50 an opportunity for attendance of such meetings by interested parties, with
51 enumerated exceptions designed to protect the public's interest, the privacy of

- 1 individuals, and proprietary information, including trade secrets. The
2 Commission may meet in closed session only after a majority of the
3 administrators vote to close a meeting in whole or in part. As soon as
4 practicable, the Commission must make public a copy of the vote to close the
5 meeting revealing the vote of each administrator, with no proxy votes allowed.
- 6 (4) Establishing the titles, duties, authority, and reasonable procedures for the
7 election of the officers of the Commission.
- 8 (5) Providing reasonable standards and procedures for the establishment of the
9 personnel policies and programs of the Commission. Notwithstanding any civil
10 service or other similar laws of any party state, the bylaws shall exclusively
11 govern the personnel policies and programs of the Commission.
- 12 (6) Providing a mechanism for winding up the operations of the Commission and
13 the equitable disposition of any surplus funds that may exist after the
14 termination of this Compact after the payment or reserving of all of its debts
15 and obligations.
- 16 (d) The Commission shall publish its bylaws and rules, and any amendments thereto, in a
17 convenient form on the Web site of the Commission.
- 18 (e) The Commission shall maintain its financial records in accordance with the bylaws.
- 19 (f) The Commission shall meet and take such actions as are consistent with the provisions
20 of this Compact and the bylaws.
- 21 (g) The Commission shall have all of the following powers:
- 22 (1) To adopt uniform rules to facilitate and coordinate implementation and
23 administration of this Compact. The rules shall have the force and effect of law
24 and shall be binding in all party states.
- 25 (2) To bring and prosecute legal proceedings or actions in the name of the
26 Commission, provided that the standing of any licensing board to sue or be
27 sued under applicable law shall not be affected.
- 28 (3) To purchase and maintain insurance and bonds.
- 29 (4) To borrow, accept, or contract for services of personnel, including, but not
30 limited to, employees of a party state or nonprofit organizations.
- 31 (5) To cooperate with other organizations that administer state compacts related to
32 the regulation of nursing, including, but not limited to, sharing administrative or
33 staff expenses, office space, or other resources.
- 34 (6) To hire employees, elect or appoint officers, fix compensation, define duties,
35 grant such individuals appropriate authority to carry out the purposes of this
36 Compact, and to establish the Commission's personnel policies and programs
37 relating to conflicts of interest, qualifications of personnel, and other related
38 personnel matters.
- 39 (7) To accept any and all appropriate donations, grants and gifts of money,
40 equipment, supplies, materials, and services, and to receive, utilize, and dispose
41 of the same; provided that at all times the Commission shall avoid any
42 appearance of impropriety or conflict of interest.
- 43 (8) To lease, purchase, accept appropriate gifts or donations of, or otherwise to
44 own, hold, improve, or use any property, whether real, personal, or mixed;
45 provided that at all times the Commission shall avoid any appearance of
46 impropriety.
- 47 (9) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise
48 dispose of any property, whether real, personal, or mixed.
- 49 (10) To establish a budget and make expenditures.
- 50 (11) To borrow money.

- 1 (12) To appoint committees, including advisory committees comprised of
2 administrators, state nursing regulators, state legislators or their representatives,
3 and consumer representatives, and other such interested persons.
- 4 (13) To provide and receive information from, and to cooperate with, law
5 enforcement agencies.
- 6 (14) To adopt and use an official seal.
- 7 (15) To perform such other functions as may be necessary or appropriate to achieve
8 the purposes of this Compact consistent with the state regulation of nurse
9 licensure and practice.
- 10 (h) Financing of the Commission. –
- 11 (1) The Commission shall pay, or provide for the payment of, the reasonable
12 expenses of its establishment, organization, and ongoing activities.
- 13 (2) The Commission may also levy on and collect an annual assessment from each
14 party state to cover the cost of its operations, activities, and staff in its annual
15 budget as approved each year. The aggregate annual assessment amount, if any,
16 shall be allocated based upon a formula to be determined by the Commission,
17 which shall promulgate a rule that is binding upon all party states.
- 18 (3) The Commission shall not incur obligations of any kind prior to securing the
19 funds adequate to meet the same; nor shall the Commission pledge the credit of
20 any of the party states, except by, and with the authority of, such party state.
- 21 (4) The Commission shall keep accurate accounts of all receipts and disbursements.
22 The receipts and disbursements of the Commission shall be subject to the audit
23 and accounting procedures established under its bylaws. However, all receipts
24 and disbursements of funds handled by the Commission shall be audited yearly
25 by a certified or licensed public accountant, and the report of the audit shall be
26 included in and become part of the annual report of the Commission.
- 27 (i) Qualified Immunity, Defense, and Indemnification. –
- 28 (1) The administrators, officers, executive director, employees, and representatives
29 of the Commission shall be immune from suit and liability, either personally or
30 in their official capacity, for any claim for damage to or loss of property or
31 personal injury or other civil liability caused by or arising out of any actual or
32 alleged act, error, or omission that occurred, or that the person against whom
33 the claim is made had a reasonable basis for believing occurred, within the
34 scope of Commission employment, duties, or responsibilities; provided that
35 nothing in this paragraph shall be construed to protect any such person from
36 suit or liability for any damage, loss, injury, or liability caused by the
37 intentional, willful, or wanton misconduct of that person.
- 38 (2) The Commission shall defend any administrator, officer, executive director,
39 employee, or representative of the Commission in any civil action seeking to
40 impose liability arising out of any actual or alleged act, error, or omission that
41 occurred within the scope of Commission employment, duties, or
42 responsibilities, or that the person against whom the claim is made had a
43 reasonable basis for believing occurred within the scope of Commission
44 employment, duties, or responsibilities; provided that nothing herein shall be
45 construed to prohibit that person from retaining his or her own counsel; and
46 provided further that the actual or alleged act, error, or omission did not result
47 from that person's intentional, willful, or wanton misconduct.
- 48 (3) The Commission shall indemnify and hold harmless any administrator, officer,
49 executive director, employee, or representative of the Commission for the
50 amount of any settlement or judgment obtained against that person arising out
51 of any actual or alleged act, error, or omission that occurred within the scope of

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

"§ 90-171.95G. Rule making.

(a) The Commission shall exercise its rule-making powers pursuant to the criteria set forth in this Article and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment and shall have the same force and effect as provisions of this Compact.

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

(c) Prior to promulgation and adoption of a final rule or rules by the Commission, and at least 60 days in advance of the meeting at which the rule will be considered and voted upon, the Commission shall file a notice of proposed rule making in both of the following locations:

(1) On the Web site of the Commission.

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

(d) The notice of proposed rule making shall include all of the following:

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

(2) The text of the proposed rule or amendment and the reason for the proposed rule.

(3) A request for comments on the proposed rule from any interested person.

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

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

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

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

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

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

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

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

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

(k) Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing; provided that the usual rule-making procedures provided in this Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective

1 date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted
2 immediately in order to do one or more of the following:

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

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

15 **"§ 90-171.95H. Oversight, dispute resolution, and enforcement.**

16 (a) Oversight. –

- 17 (1) Each party state shall enforce this Compact and take all actions necessary and
18 appropriate to effectuate this Compact's purposes and intent.
- 19 (2) The Commission shall be entitled to receive service of process in any
20 proceeding that may affect the powers, responsibilities, or actions of the
21 Commission and shall have standing to intervene in such a proceeding for all
22 purposes. Failure to provide service of process in such proceeding to the
23 Commission shall render a judgment or order void as to the Commission, this
24 Compact, or promulgated rules.

25 (b) Default, Technical Assistance, and Termination. –

- 26 (1) If the Commission determines that a party state has defaulted in the
27 performance of its obligations or responsibilities under this Compact or the
28 promulgated rules, the Commission shall do both of the following:
 - 29 a. Provide written notice to the defaulting state and other party states of
30 the nature of the default, the proposed means of curing the default, or
31 any other action to be taken by the Commission.
 - 32 b. Provide remedial training and specific technical assistance regarding the
33 default.
- 34 (2) If a state in default fails to cure the default, the defaulting state's membership in
35 this Compact may be terminated upon an affirmative vote of a majority of the
36 administrators, and all rights, privileges, and benefits conferred by this
37 Compact may be terminated on the effective date of termination. A cure of the
38 default does not relieve the offending state of obligations or liabilities incurred
39 during the period of default.
- 40 (3) Termination of membership in this Compact shall be imposed only after all
41 other means of securing compliance have been exhausted. Notice of intent to
42 suspend or terminate shall be given by the Commission to the governor of the
43 defaulting state and to the executive officer of the defaulting state's licensing
44 board and each of the party states.
- 45 (4) A state whose membership in this Compact has been terminated is responsible
46 for all assessments, obligations, and liabilities incurred through the effective
47 date of termination, including obligations that extend beyond the effective date
48 of termination.
- 49 (5) The Commission shall not bear any costs related to a state that is found to be in
50 default or whose membership in this Compact has been terminated unless
51 agreed upon in writing between the Commission and the defaulting state.

- 1 (6) The defaulting state may appeal the action of the Commission by petitioning
2 the U.S. District Court for the District of Columbia or the federal district in
3 which the Commission has its principal offices. The prevailing party shall be
4 awarded all costs of such litigation, including reasonable attorneys' fees.
- 5 (c) Dispute Resolution. –
- 6 (1) Upon request by a party state, the Commission shall attempt to resolve disputes
7 related to the Compact that arise among party states and between party and
8 nonparty states.
- 9 (2) The Commission shall promulgate a rule providing for both mediation and
10 binding dispute resolution for disputes, as appropriate.
- 11 (3) In the event the Commission cannot resolve disputes among party states arising
12 under this Compact:
- 13 a. The party states may submit the issues in dispute to an arbitration panel,
14 which will be comprised of individuals appointed by the Compact
15 administrator in each of the affected party states and an individual
16 mutually agreed upon by the Compact administrators of all the party
17 states involved in the dispute.
- 18 b. The decision of a majority of the arbitrators shall be final and binding.
- 19 (d) Enforcement. –
- 20 (1) The Commission, in the reasonable exercise of its discretion, shall enforce the
21 provisions and rules of this Compact.
- 22 (2) By majority vote, the Commission may initiate legal action in the U.S. District
23 Court for the District of Columbia or the federal district in which the
24 Commission has its principal offices against a party state that is in default to
25 enforce compliance with the provisions of this Compact and its promulgated
26 rules and bylaws. The relief sought may include both injunctive relief and
27 damages. In the event judicial enforcement is necessary, the prevailing party
28 shall be awarded all costs of such litigation, including reasonable attorneys'
29 fees.
- 30 (3) The remedies herein shall not be the exclusive remedies of the Commission.
31 The Commission may pursue any other remedies available under federal or
32 state law.

33 **"§ 90-171.95I. Effective date, withdrawal, and amendment.**

34 (a) This Compact shall become effective and binding on the earlier of the date of
35 legislative enactment of this Compact into law by no less than 26 states or December 31, 2018. All
36 party states to this Compact, that also were parties to the prior Nurse Licensure Compact
37 superseded by this Compact ("Prior Compact"), shall be deemed to have withdrawn from said
38 Prior Compact within six months after the effective date of this Compact.

39 (b) Each party state to this Compact shall continue to recognize a nurse's multistate
40 licensure privilege to practice in that party state issued under the Prior Compact until such party
41 state has withdrawn from the Prior Compact.

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

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

48 (e) Nothing contained in this Compact shall be construed to invalidate or prevent any
49 nurse licensure agreement or other cooperative arrangement between a party state and a nonparty
50 state that is made in accordance with the other provisions of this Compact.

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

4 (g) Representatives of nonparty states to this Compact shall be invited to participate in the
5 activities of the Commission, on a nonvoting basis, prior to the adoption of this Compact by all
6 states.

7 **"§ 90-171.95J. Construction and severability.**

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

16 **SECTION 3.** This act becomes effective when at least 26 states have enacted the
17 Nurse Licensure Compact set forth in Section 2 of this act or December 31, 2018, whichever is
18 earlier. The North Carolina Board of Nursing shall report to the Revisor of Statutes when the
19 Nurse Licensure Compact set forth in Section 2 of this act has been enacted by the 26 member
20 states.