

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

2

HOUSE BILL 338
Corrected Copy 6/7/17

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

Sponsors: Representatives Szoka, Adcock, Boswell, and Williams (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Health, if favorable, Finance

March 15, 2017

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5 **SECTION 1.** G.S. 90-171.80 through G.S. 90-171.94 are repealed.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
7 adding 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
14 nursing 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
17 greater coordination and cooperation among states in the areas of nurse
18 licensure and regulation.

19 (4) New practice modalities and technology make compliance with individual
20 state 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
30 nurse 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
34 meeting all state practice laws in the state in which the patient is located at



* H 3 3 8 - V - 2 *

1 the time care is rendered through the mutual recognition of party state
2 licenses.

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

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

6 **"§ 90-171.95A. Definitions.**

7 As used in this Compact:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 **"§ 90-171.95B. General provisions and jurisdiction.**

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

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

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

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

15 (2) Either of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 **"§ 90-171.95C. Applications for licensure in a party state.**

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

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

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

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

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

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

49 **"§ 90-171.95D. Additional authorities invested in party state licensing boards.**

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

- 1 (1) Take adverse action against a nurse's multistate licensure privilege to
2 practice within that party state.
3 a. Only the home state shall have the power to take adverse action
4 against a nurse's license issued by the home state.
5 b. For purposes of taking adverse action, the home state licensing board
6 shall give the same priority and effect to reported conduct received
7 from a remote state as it would if such conduct had occurred within
8 the home state. In so doing, the home state shall apply its own state
9 laws to determine appropriate action.
10 (2) Issue cease and desist orders or impose an encumbrance on a nurse's
11 authority to practice within that party state.
12 (3) Complete any pending investigations of a nurse who changes primary state
13 of residence during the course of such investigations. The licensing board
14 shall also have the authority to take appropriate action(s) and shall promptly
15 report the conclusions of such investigations to the administrator of the
16 coordinated licensure information system. The administrator of the
17 coordinated licensure information system shall promptly notify the new
18 home state of any such actions.
19 (4) Issue subpoenas for both hearings and investigations that require the
20 attendance and testimony of witnesses as well as the production of evidence.
21 Subpoenas issued by a licensing board in a party state for the attendance and
22 testimony of witnesses or the production of evidence from another party
23 state shall be enforced in the latter state by any court of competent
24 jurisdiction, according to the practice and procedure of that court applicable
25 to subpoenas issued in proceedings pending before it. The issuing authority
26 shall pay any witness fees, travel expenses, mileage, and other fees required
27 by the service statutes of the state in which the witnesses or evidence are
28 located.
29 (5) Obtain and submit, for each nurse licensure applicant, fingerprint or other
30 biometric-based information to the Federal Bureau of Investigation for
31 criminal background checks, receive the results of the Federal Bureau of
32 Investigation record search on criminal background checks, and use the
33 results in making licensure decisions.
34 (6) If otherwise permitted by state law, recover from the affected nurse the costs
35 of investigations and disposition of cases resulting from any adverse action
36 taken against that nurse.
37 (7) Take adverse action based on the factual findings of the remote state,
38 provided that the licensing board follows its own procedures for taking such
39 adverse action.
40 (b) If adverse action is taken by the home state against a nurse's multistate license, the
41 nurse's multistate licensure privilege to practice in all other party states shall be deactivated
42 until all encumbrances have been removed from the multistate license. All home state
43 disciplinary orders that impose adverse action against a nurse's multistate license shall include a
44 statement that the nurse's multistate licensure privilege is deactivated in all party states during
45 the pendency of the order.
46 (c) Nothing in this Compact shall override a party state's decision that participation in
47 an alternative program may be used in lieu of adverse action. The home state licensing board
48 shall deactivate the multistate licensure privilege under the multistate license of any nurse for
49 the duration of the nurse's participation in an alternative program.
50 **"§ 90-171.95E. Coordinated licensure information system and exchange of information.**

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

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

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

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

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

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

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

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

31 (1) Identifying information.

32 (2) Licensure data.

33 (3) Information related to alternative program participation.

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

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

38 **"§ 90-171.95F. Establishment of the Interstate Commission of Nurse Licensure Compact**
39 **Administrators.**

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

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

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

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

50 (b) Membership, Voting and Meetings. –

- 1 (1) Each party state shall have and be limited to one administrator. The head of
2 the state licensing board or designee shall be the administrator of this
3 Compact for each party state. Any administrator may be removed or
4 suspended from office as provided by the law of the state from which the
5 Administrator is appointed. Any vacancy occurring in the Commission shall
6 be filled in accordance with the laws of the party state in which the vacancy
7 exists.
- 8 (2) Each administrator shall be entitled to one vote with regard to the
9 promulgation of rules and creation of bylaws and shall otherwise have an
10 opportunity to participate in the business and affairs of the Commission. An
11 administrator shall vote in person or by such other means as provided in the
12 bylaws. The bylaws may provide for an administrator's participation in
13 meetings by telephone or other means of communication.
- 14 (3) The Commission shall meet at least once during each calendar year.
15 Additional meetings shall be held as set forth in the bylaws or rules of the
16 commission.
- 17 (4) All meetings shall be open to the public, and public notice of meetings shall
18 be given in the same manner as required under the rule-making provisions in
19 G.S. 90-171.95G.
- 20 (5) The Commission may convene in a closed, nonpublic meeting if the
21 Commission must discuss any of the following:
- 22 a. Noncompliance of a party state with its obligations under this
23 Compact.
- 24 b. The employment, compensation, discipline or other personnel
25 matters, practices or procedures related to specific employees, or
26 other matters related to the Commission's internal personnel practices
27 and procedures.
- 28 c. Current, threatened, or reasonably anticipated litigation.
- 29 d. Negotiation of contracts for the purchase or sale of goods, services,
30 or real estate.
- 31 e. Accusing any person of a crime or formally censuring any person.
- 32 f. Disclosure of trade secrets or commercial or financial information
33 that is privileged or confidential.
- 34 g. Disclosure of information of a personal nature where disclosure
35 would constitute a clearly unwarranted invasion of personal privacy.
- 36 h. Disclosure of investigatory records compiled for law enforcement
37 purposes.
- 38 i. Disclosure of information related to any reports prepared by or on
39 behalf of the Commission for the purpose of investigation of
40 compliance with this Compact.
- 41 j. Matters specifically exempted from disclosure by federal or state
42 statute.
- 43 (6) If a meeting, or portion of a meeting, is closed pursuant to this provision, the
44 Commission's legal counsel or designee shall certify that the meeting may be
45 closed and shall reference each relevant exempting provision. The
46 Commission shall keep minutes that fully and clearly describe all matters
47 discussed in a meeting and shall provide a full and accurate summary of
48 actions taken, and the reasons therefor, including a description of the views
49 expressed. All documents considered in connection with an action shall be
50 identified in such minutes. All minutes and documents of a closed meeting

- 1 shall remain under seal, subject to release by a majority vote of the
2 Commission or order of a court of competent jurisdiction.
- 3 (c) Bylaws. – The Commission shall, by a majority vote of the administrators, prescribe
4 bylaws or rules to govern its conduct as may be necessary or appropriate to carry out the
5 purposes and exercise the powers of this Compact, including the following:
- 6 (1) Establishing the fiscal year of the Commission.
7 (2) Providing reasonable standards and procedures for both of the following:
8 a. Establishment and meetings of other committees.
9 b. Governing any general or specific delegation of any authority or
10 function of the Commission.
- 11 (3) Providing reasonable procedures for calling and conducting meetings of the
12 Commission, ensuring reasonable advance notice of all meetings and
13 providing an opportunity for attendance of such meetings by interested
14 parties, with enumerated exceptions designed to protect the public's interest,
15 the privacy of individuals, and proprietary information, including trade
16 secrets. The Commission may meet in closed session only after a majority of
17 the administrators vote to close a meeting in whole or in part. As soon as
18 practicable, the Commission must make public a copy of the vote to close
19 the meeting revealing the vote of each administrator, with no proxy votes
20 allowed.
- 21 (4) Establishing the titles, duties, authority, and reasonable procedures for the
22 election of the officers of the Commission.
- 23 (5) Providing reasonable standards and procedures for the establishment of the
24 personnel policies and programs of the Commission. Notwithstanding any
25 civil service or other similar laws of any party state, the bylaws shall
26 exclusively govern the personnel policies and programs of the Commission.
- 27 (6) Providing a mechanism for winding up the operations of the Commission
28 and the equitable disposition of any surplus funds that may exist after the
29 termination of this Compact after the payment or reserving of all of its debts
30 and obligations.
- 31 (d) The Commission shall publish its bylaws and rules, and any amendments thereto, in
32 a convenient form on the Web site of the Commission.
- 33 (e) The Commission shall maintain its financial records in accordance with the bylaws.
- 34 (f) The Commission shall meet and take such actions as are consistent with the
35 provisions of this Compact and the bylaws.
- 36 (g) The Commission shall have all of the following powers:
- 37 (1) To adopt uniform rules to facilitate and coordinate implementation and
38 administration of this Compact. The rules shall have the force and effect of
39 law and shall be binding in all party states.
- 40 (2) To bring and prosecute legal proceedings or actions in the name of the
41 Commission, provided that the standing of any licensing board to sue or be
42 sued under applicable law shall not be affected.
- 43 (3) To purchase and maintain insurance and bonds.
- 44 (4) To borrow, accept, or contract for services of personnel, including, but not
45 limited to, employees of a party state or nonprofit organizations.
- 46 (5) To cooperate with other organizations that administer state compacts related
47 to the regulation of nursing, including, but not limited to, sharing
48 administrative or staff expenses, office space, or other resources.
- 49 (6) To hire employees, elect or appoint officers, fix compensation, define duties,
50 grant such individuals appropriate authority to carry out the purposes of this
51 Compact, and to establish the Commission's personnel policies and programs

- 1 relating to conflicts of interest, qualifications of personnel, and other related
2 personnel matters.
- 3 (7) To accept any and all appropriate donations, grants and gifts of money,
4 equipment, supplies, materials, and services, and to receive, utilize, and
5 dispose of the same; provided that at all times the Commission shall avoid
6 any appearance of impropriety or conflict of interest.
- 7 (8) To lease, purchase, accept appropriate gifts or donations of, or otherwise to
8 own, hold, improve, or use any property, whether real, personal, or mixed;
9 provided that at all times the Commission shall avoid any appearance of
10 impropriety.
- 11 (9) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise
12 dispose of any property, whether real, personal, or mixed.
- 13 (10) To establish a budget and make expenditures.
- 14 (11) To borrow money.
- 15 (12) To appoint committees, including advisory committees comprised of
16 administrators, state nursing regulators, state legislators or their
17 representatives, and consumer representatives, and other such interested
18 persons.
- 19 (13) To provide and receive information from, and to cooperate with, law
20 enforcement agencies.
- 21 (14) To adopt and use an official seal.
- 22 (15) To perform such other functions as may be necessary or appropriate to
23 achieve the purposes of this Compact consistent with the state regulation of
24 nurse licensure and practice.
- 25 (h) Financing of the Commission. –
- 26 (1) The Commission shall pay, or provide for the payment of, the reasonable
27 expenses of its establishment, organization, and ongoing activities.
- 28 (2) The Commission may also levy on and collect an annual assessment from
29 each party state to cover the cost of its operations, activities, and staff in its
30 annual budget as approved each year. The aggregate annual assessment
31 amount, if any, shall be allocated based upon a formula to be determined by
32 the Commission, which shall promulgate a rule that is binding upon all party
33 states.
- 34 (3) The Commission shall not incur obligations of any kind prior to securing the
35 funds adequate to meet the same; nor shall the Commission pledge the credit
36 of any of the party states, except by, and with the authority of, such party
37 state.
- 38 (4) The Commission shall keep accurate accounts of all receipts and
39 disbursements. The receipts and disbursements of the Commission shall be
40 subject to the audit and accounting procedures established under its bylaws.
41 However, all receipts and disbursements of funds handled by the
42 Commission shall be audited yearly by a certified or licensed public
43 accountant, and the report of the audit shall be included in and become part
44 of the annual report of the Commission.
- 45 (i) Qualified Immunity, Defense, and Indemnification. –
- 46 (1) The administrators, officers, executive director, employees, and
47 representatives of the Commission shall be immune from suit and liability,
48 either personally or in their official capacity, for any claim for damage to or
49 loss of property or personal injury or other civil liability caused by or arising
50 out of any actual or alleged act, error, or omission that occurred, or that the
51 person against whom the claim is made had a reasonable basis for believing

1 occurred, within the scope of Commission employment, duties, or
2 responsibilities; provided that nothing in this paragraph shall be construed to
3 protect any such person from suit or liability for any damage, loss, injury, or
4 liability caused by the intentional, willful, or wanton misconduct of that
5 person.

6 (2) The Commission shall defend any administrator, officer, executive director,
7 employee, or representative of the Commission in any civil action seeking to
8 impose liability arising out of any actual or alleged act, error, or omission
9 that occurred within the scope of Commission employment, duties, or
10 responsibilities, or that the person against whom the claim is made had a
11 reasonable basis for believing occurred within the scope of Commission
12 employment, duties, or responsibilities; provided that nothing herein shall be
13 construed to prohibit that person from retaining his or her own counsel; and
14 provided further that the actual or alleged act, error, or omission did not
15 result from that person's intentional, willful, or wanton misconduct.

16 (3) The Commission shall indemnify and hold harmless any administrator,
17 officer, executive director, employee, or representative of the Commission
18 for the amount of any settlement or judgment obtained against that person
19 arising out of any actual or alleged act, error, or omission that occurred
20 within the scope of Commission employment, duties, or responsibilities, or
21 that such person had a reasonable basis for believing occurred within the
22 scope of Commission employment, duties, or responsibilities; provided that
23 the actual or alleged act, error, or omission did not result from the
24 intentional, willful, or wanton misconduct of that person.

25 **§ 90-171.95G. Rule making.**

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

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

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

35 (1) On the Web site of the Commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (1) Meet an imminent threat to public health, safety, or welfare.

25 (2) Prevent a loss of Commission or party state funds.

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

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

37 **"§ 90-171.95H. Oversight, dispute resolution, and enforcement.**

38 (a) Oversight. –

39 (1) Each party state shall enforce this Compact and take all actions necessary
40 and appropriate to effectuate this Compact's purposes and intent.

41 (2) The Commission shall be entitled to receive service of process in any
42 proceeding that may affect the powers, responsibilities, or actions of the
43 Commission and shall have standing to intervene in such a proceeding for all
44 purposes. Failure to provide service of process in such proceeding to the
45 Commission shall render a judgment or order void as to the Commission,
46 this Compact, or promulgated rules.

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

48 (1) If the Commission determines that a party state has defaulted in the
49 performance of its obligations or responsibilities under this Compact or the
50 promulgated rules, the Commission shall do both of the following:

- 1 a. Provide written notice to the defaulting state and other party states of
2 the nature of the default, the proposed means of curing the default, or
3 any other action to be taken by the Commission.
- 4 b. Provide remedial training and specific technical assistance regarding
5 the default.
- 6 (2) If a state in default fails to cure the default, the defaulting state's membership
7 in this Compact may be terminated upon an affirmative vote of a majority of
8 the administrators, and all rights, privileges, and benefits conferred by this
9 Compact may be terminated on the effective date of termination. A cure of
10 the default does not relieve the offending state of obligations or liabilities
11 incurred during the period of default.
- 12 (3) Termination of membership in this Compact shall be imposed only after all
13 other means of securing compliance have been exhausted. Notice of intent to
14 suspend or terminate shall be given by the Commission to the governor of
15 the defaulting state and to the executive officer of the defaulting state's
16 licensing board and each of the party states.
- 17 (4) A state whose membership in this Compact has been terminated is
18 responsible for all assessments, obligations, and liabilities incurred through
19 the effective date of termination, including obligations that extend beyond
20 the effective date of termination.
- 21 (5) The Commission shall not bear any costs related to a state that is found to be
22 in default or whose membership in this Compact has been terminated unless
23 agreed upon in writing between the Commission and the defaulting state.
- 24 (6) The defaulting state may appeal the action of the Commission by petitioning
25 the U.S. District Court for the District of Columbia or the federal district in
26 which the Commission has its principal offices. The prevailing party shall be
27 awarded all costs of such litigation, including reasonable attorneys' fees.
- 28 (c) Dispute Resolution. –
- 29 (1) Upon request by a party state, the Commission shall attempt to resolve
30 disputes related to the Compact that arise among party states and between
31 party and nonparty states.
- 32 (2) The Commission shall promulgate a rule providing for both mediation and
33 binding dispute resolution for disputes, as appropriate.
- 34 (3) In the event the Commission cannot resolve disputes among party states
35 arising under this Compact:
- 36 a. The party states may submit the issues in dispute to an arbitration
37 panel, which will be comprised of individuals appointed by the
38 Compact administrator in each of the affected party states and an
39 individual mutually agreed upon by the Compact administrators of
40 all the party states involved in the dispute.
- 41 b. The decision of a majority of the arbitrators shall be final and
42 binding.
- 43 (d) Enforcement. –
- 44 (1) The Commission, in the reasonable exercise of its discretion, shall enforce
45 the provisions and rules of this Compact.
- 46 (2) By majority vote, the Commission may initiate legal action in the U.S.
47 District Court for the District of Columbia or the federal district in which the
48 Commission has its principal offices against a party state that is in default to
49 enforce compliance with the provisions of this Compact and its promulgated
50 rules and bylaws. The relief sought may include both injunctive relief and
51 damages. In the event judicial enforcement is necessary, the prevailing party

1 shall be awarded all costs of such litigation, including reasonable attorneys'
2 fees.

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

6 **"§ 90-171.95I. Effective date, withdrawal, and amendment.**

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

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

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

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

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

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

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

31 **"§ 90-171.95J. Construction and severability.**

32 This Compact shall be liberally construed so as to effectuate the purposes thereof. The
33 provisions of this Compact shall be severable, and if any phrase, clause, sentence, or provision
34 of this Compact is declared to be contrary to the constitution of any party state or of the United
35 States, or if the applicability thereof to any government, agency, person, or circumstance is held
36 invalid, the validity of the remainder of this Compact and the applicability thereof to any
37 government, agency, person, or circumstance shall not be affected thereby. If this Compact
38 shall be held to be contrary to the constitution of any party state, this Compact shall remain in
39 full force and effect as to the remaining party states and to all severable matters."

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