

1 AN ACT relating to the nurse licensure compact.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO
4 READ AS FOLLOWS:

5 *The Nurse Licensure Compact is hereby enacted and entered into with all other*
6 *jurisdictions that legally join in the Compact, which is, in form, substantially as*
7 *follows:*

8 *ARTICLE I*

9 *Findings and Declaration of Purpose*

10 *a. The party states find that:*

11 *1. The health and safety of the public are affected by the degree of compliance*
12 *with and the effectiveness of enforcement activities related to state nurse*
13 *licensure laws;*

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

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

20 *4. New practice modalities and technology make compliance with individual*
21 *state nurse licensure laws difficult and complex;*

22 *5. The current system of duplicative licensure for nurses practicing in multiple*
23 *states is cumbersome and redundant for both nurses and states; and*

24 *6. Uniformity of nurse licensure requirements throughout the states promotes*
25 *public safety and public health benefits.*

26 *b. The general purposes of this Compact are to:*

27 *1. Facilitate the states' responsibility to protect the public's health and safety;*

- 1 2. Ensure and encourage the cooperation of party states in the areas of nurse
2 licensure and regulation;
- 3 3. Facilitate the exchange of information between party states in the areas of
4 nurse regulation, investigation and adverse actions;
- 5 4. Promote compliance with the laws governing the practice of nursing in
6 each jurisdiction;
- 7 5. Invest all party states with the authority to hold a nurse accountable for
8 meeting all state practice laws in the state in which the patient is located at
9 the time care is rendered through the mutual recognition of party state
10 licenses;
- 11 6. Decrease redundancies in the consideration and issuance of nurse licenses;
12 and
- 13 7. Provide opportunities for interstate practice by nurses who meet uniform
14 licensure requirements.
- 15 c. The following provisions of this Compact shall apply in this state:
- 16 1. By entering into this Compact, this state authorizes the licensing board as
17 defined in Article II. g. of this Compact and as created by KRS Chapter 314
18 to implement the provisions of this Compact.
- 19 2. Notwithstanding any provision of this Compact to the contrary:
- 20 i. When a rule is adopted pursuant to Article VIII of this Compact, the
21 licensing board of this state as defined by Article II. g. of this Compact
22 shall have sixty (60) days to review the rule for the purpose of filing
23 the rule as an emergency administrative regulation pursuant to KRS
24 13A.190 and for filing the rule as an accompanying ordinary
25 administrative regulation, following the requirements of KRS Chapter
26 13A. Failure by the licensing board of this state as defined by Article
27 II. g. of this Compact to promulgate a rule adopted by the Interstate

- 1 Commission of Nurse Licensure Compact Administrators as an
 2 administrative regulation pursuant to KRS Chapter 13A shall result in
 3 the initiation of the process for withdrawal as set forth in Article X of
 4 this Compact. Nothing in these provisions shall negate the
 5 applicability and effect of Article VIII. j. of this Compact to this state.
- 6 ii. If the proposed administrative regulation is found deficient and the
 7 deficiency is not resolved pursuant to KRS 13A.330 or 13A.335, the
 8 provisions of Article IX of this Compact shall apply. In the event that
 9 the procedures under Article IX of this Compact fail to resolve an
 10 issue, the provisions of Article X of this Compact shall apply.
- 11 iii. In the event the Interstate Commission of Nurse Licensure Compact
 12 Administrators created by Article VII of this Compact exercises its
 13 rulemaking authority in a manner that is beyond the scope of the
 14 purposes of this Compact, or the powers granted hereunder, then such
 15 an action by the Commission shall be invalid and have no force or
 16 effect.
- 17 3. Article VII. h. of this Compact pertaining to the financing of the
 18 Commission shall not be interpreted to obligate the general fund of this
 19 state. Any funds used to finance this Compact shall be from money collected
 20 pursuant to KRS 314.161.
- 21 4. This Compact shall apply only to those nurses who hold a multistate license.
- 22 5. The term "head of the state licensing board" as used in Article VII. b. of
 23 this Compact refers to the executive director of the Kentucky Board of
 24 Nursing.

ARTICLE II

Definitions

As used in this Compact:

- 1 a. "Adverse action" means any administrative, civil, equitable or criminal action
2 permitted by a state's laws which is imposed by a licensing board or other
3 authority against a nurse, including actions against an individual's license or
4 multistate licensure privilege such as revocation, suspension, probation,
5 monitoring of the licensee, limitation on the licensee's practice, or any other
6 encumbrance on licensure affecting a nurse's authorization to practice,
7 including issuance of a cease and desist action.
- 8 b. "Alternative program" means a non-disciplinary monitoring program approved
9 by a licensing board.
- 10 c. "Coordinated licensure information system" means an integrated process for
11 collecting, storing and sharing information on nurse licensure and enforcement
12 activities related to nurse licensure laws that is administered by a nonprofit
13 organization composed of and controlled by licensing boards.
- 14 d. "Current significant investigative information" means:
- 15 1. Investigative information that a licensing board, after a preliminary inquiry
16 that includes notification and an opportunity for the nurse to respond, if
17 required by state law, has reason to believe is not groundless and, if proved
18 true, would indicate more than a minor infraction; or
- 19 2. Investigative information that indicates that the nurse represents an
20 immediate threat to public health and safety regardless of whether the nurse
21 has been notified and had an opportunity to respond.
- 22 e. "Encumbrance" means a revocation or suspension of, or any limitation on, the
23 full and unrestricted practice of nursing imposed by a licensing board.
- 24 f. "Home state" means the party state which is the nurse's primary state of
25 residence.
- 26 g. "Licensing board" means a party state's regulatory body responsible for issuing
27 nurse licenses.

- 1 *h. "Multistate license" means a license to practice as a registered or a licensed*
2 *practical/vocational nurse (LPN/VN) issued by a home state licensing board that*
3 *authorizes the licensed nurse to practice in all party states under a multistate*
4 *licensure privilege.*
- 5 *i. "Multistate licensure privilege" means a legal authorization associated with a*
6 *multistate license permitting the practice of nursing as either a registered nurse*
7 *(RN) or LPN/VN in a remote state.*
- 8 *j. "Nurse" means RN or LPN/VN, as those terms are defined by each party state's*
9 *practice laws.*
- 10 *k. "Party state" means any state that has adopted this Compact.*
- 11 *l. "Remote state" means a party state, other than the home state.*
- 12 *m. "Single-state license" means a nurse license issued by a party state that*
13 *authorizes practice only within the issuing state and does not include a multistate*
14 *licensure privilege to practice in any other party state.*
- 15 *n. "State" means a state, territory or possession of the United States and the District*
16 *of Columbia.*
- 17 *o. "State practice laws" means a party state's laws, rules and regulations that*
18 *govern the practice of nursing, define the scope of nursing practice, and create*
19 *the methods and grounds for imposing discipline. "State practice laws" do not*
20 *include requirements necessary to obtain and retain a license, except for*
21 *qualifications or requirements of the home state.*

ARTICLE III

General Provisions and Jurisdiction

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

1 each party state.

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

8 c. Each party state shall require 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,
11 as well as all other applicable state laws;

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

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

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

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

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

26 6. Has submitted, in connection with an application for initial licensure or
27 licensure by endorsement, fingerprints or other biometric data for the

- 1 purpose of obtaining criminal history record information from the Federal
2 Bureau of Investigation and the agency responsible for retaining that
3 state's criminal records;
- 4 7. Has not been convicted or found guilty, or has entered into an agreed
5 disposition, of a felony offense under applicable state or federal criminal
6 law;
- 7 8. Has not been convicted or found guilty, or has entered into an agreed
8 disposition, of a misdemeanor offense related to the practice of nursing as
9 determined on a case-by-case basis;
- 10 9. Is not currently enrolled in an alternative program;
- 11 10. Is subject to self-disclosure requirements regarding current participation in
12 an alternative program; and
- 13 11. Has a valid United States Social Security number.
- 14 d. All party states shall be authorized, in accordance with existing state due process
15 law, to take adverse action against a nurse's multistate licensure privilege such as
16 revocation, suspension, probation or any other action that affects a nurse's
17 authorization to practice under a multistate licensure privilege, including cease
18 and desist actions. If a party state takes such action, it shall promptly notify the
19 administrator of the coordinated licensure information system. The administrator
20 of the coordinated licensure information system shall promptly notify the home
21 state of any such actions by remote states.
- 22 e. A nurse practicing in a party state must comply with the state practice laws of the
23 state in which the client is located at the time service is provided. The practice of
24 nursing is not limited to patient care, but shall include all nursing practice as
25 defined by the state practice laws of the party state in which the client is located.
26 The practice of nursing in a party state under a multistate licensure privilege will
27 subject a nurse to the jurisdiction of the licensing board, the courts and the laws

1 of the party state in which the client is located at the time service is provided.

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

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

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

20 ARTICLE IV

21 Applications for Licensure in a Party State

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

1 and whether the applicant is currently participating in an alternative program.

2 b. A nurse may hold a multistate license, issued by the home state, in only one (1)
3 party state at a time.

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

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

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

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

17 ARTICLE V

18 Additional Authorities Invested in Party State Licensing Boards

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

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

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

25 ii. For purposes of taking adverse action, the home state licensing board
26 shall give the same priority and effect to reported conduct received
27 from a remote state as it would if such conduct had occurred within

- 1 the home state. In so doing, the home state shall apply its own state
2 laws to determine appropriate action.
- 3 2. Issue cease and desist orders or impose an encumbrance on a nurse's
4 authority to practice within that party state.
- 5 3. Complete any pending investigations of a nurse who changes primary state
6 of residence during the course of such investigations. The licensing board
7 shall also have the authority to take appropriate action(s) and shall
8 promptly report the conclusions of such investigations to the administrator
9 of the coordinated licensure information system. The administrator of the
10 coordinated licensure information system shall promptly notify the new
11 home state of any such actions.
- 12 4. Issue subpoenas for both hearings and investigations that require the
13 attendance and testimony of witnesses, as well as the production of
14 evidence. Subpoenas issued by a licensing board in a party state for the
15 attendance and testimony of witnesses or the production of evidence from
16 another party state shall be enforced in the latter state by any court of
17 competent jurisdiction, according to the practice and procedure of that
18 court applicable to subpoenas issued in proceedings pending before it. The
19 issuing authority shall pay any witness fees, travel expenses, mileage and
20 other fees required by the service statutes of the state in which the witnesses
21 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
24 criminal background checks, receive the results of the Federal Bureau of
25 Investigation record search on criminal background checks and use the
26 results in making licensure decisions.
- 27 6. If otherwise permitted by state law, recover from the affected nurse the costs

1 Compact.

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

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

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

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

19 g. Any information contributed to the coordinated licensure information system that
20 is subsequently required to be expunged by the laws of the party state
21 contributing that information shall also be expunged from the coordinated
22 licensure information system.

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

26 1. Identifying information;

27 2. Licensure data;

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

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

9 4. All meetings shall be open to the public, and public notice of meetings shall
10 be given in the same manner as required under the rulemaking provisions
11 in Article VIII of this Compact.

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

14 i. Noncompliance of a party state with its obligations under this
15 Compact;

16 ii. The employment, compensation, discipline or other personnel matters,
17 practices or procedures related to specific employees or other matters
18 related to the Commission's internal personnel practices and
19 procedures;

20 iii. Current, threatened or reasonably anticipated litigation;

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

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

24 vi. Disclosure of trade secrets or commercial or financial information
25 that is privileged or confidential;

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

- 1 viii. Disclosure of investigatory records compiled for law enforcement
2 purposes;
- 3 ix. Disclosure of information related to any reports prepared by or on
4 behalf of the Commission for the purpose of investigation of
5 compliance with this Compact; or
- 6 x. Matters specifically exempted from disclosure by federal or state
7 statute.
- 8 6. If a meeting, or portion of a meeting, is closed pursuant to this provision,
9 the Commission's legal counsel or designee shall certify that the meeting
10 may be closed and shall reference each relevant exempting provision. The
11 Commission shall keep minutes that fully and clearly describe all matters
12 discussed in a meeting and shall provide a full and accurate summary of
13 actions taken, and the reasons therefor, including a description of the views
14 expressed. All documents considered in connection with an action shall be
15 identified in such minutes. All minutes and documents of a closed meeting
16 shall remain under seal, subject to release by a majority vote of the
17 Commission or order of a court of competent jurisdiction.
- 18 c. The Commission shall, by a majority vote of the administrators, prescribe bylaws
19 or rules to govern its conduct as may be necessary or appropriate to carry out the
20 purposes and exercise the powers of this Compact, including but not limited to:
- 21 1. Establishing the fiscal year of the Commission;
- 22 2. Providing reasonable standards and procedures:
- 23 i. For the establishment and meetings of other committees; and
- 24 ii. Governing any general or specific delegation of any authority or
25 function of the Commission;
- 26 3. Providing reasonable procedures for calling and conducting meetings of the
27 Commission, ensuring reasonable advance notice of all meetings and

- 1 providing an opportunity for attendance of such meetings by interested
2 parties, with enumerated exceptions designed to protect the public's interest,
3 the privacy of individuals, and proprietary information, including trade
4 secrets. The Commission may meet in closed session only after a majority of
5 the administrators vote to close a meeting in whole or in part. As soon as
6 practicable, the Commission must make public a copy of the vote to close
7 the meeting revealing the vote of each administrator, with no proxy votes
8 allowed;
- 9 4. Establishing the titles, duties and authority and reasonable procedures for
10 the election of the officers of the Commission;
- 11 5. Providing reasonable standards and procedures for the establishment of the
12 personnel policies and programs of the Commission. Notwithstanding any
13 civil service or other similar laws of any party state, the bylaws shall
14 exclusively govern the personnel policies and programs of the Commission;
15 and
- 16 6. Providing a mechanism for winding up the operations of the Commission
17 and the equitable disposition of any surplus funds that may exist after the
18 termination of this Compact after the payment or reserving of all of its debts
19 and obligations.
- 20 d. The Commission shall publish its bylaws and rules, and any amendments thereto,
21 in a convenient form on the Web site of the Commission.
- 22 e. The Commission shall maintain its financial records in accordance with the
23 bylaws.
- 24 f. The Commission shall meet and take such actions as are consistent with the
25 provisions of this Compact and the bylaws.
- 26 g. The Commission shall have the following powers:
- 27 1. To promulgate uniform rules to facilitate and coordinate implementation

- 1 and administration of this Compact. The rules shall have the force and
2 effect of law and shall be binding in all party states;
- 3 2. To bring and prosecute legal proceedings or actions in the name of the
4 Commission, provided that the standing of any licensing board to sue or be
5 sued under applicable law shall not be affected;
- 6 3. To purchase and maintain insurance and bonds;
- 7 4. To borrow, accept or contract for services of personnel, including but not
8 limited to employees of a party state or nonprofit organizations;
- 9 5. To cooperate with other organizations that administer state compacts
10 related to the regulation of nursing, including but not limited to sharing
11 administrative or staff expenses, office space or other resources;
- 12 6. To hire employees, elect or appoint officers, fix compensation, define duties,
13 grant such individuals appropriate authority to carry out the purposes of
14 this Compact, and to establish the Commission's personnel policies and
15 programs relating to conflicts of interest, qualifications of personnel and
16 other related personnel matters;
- 17 7. To accept any and all appropriate donations, grants and gifts of money,
18 equipment, supplies, materials and services, and to receive, utilize and
19 dispose of the same; provided that at all times the Commission shall avoid
20 any appearance of impropriety or conflict of interest;
- 21 8. To lease, purchase, accept appropriate gifts or donations of, or otherwise to
22 own, hold, improve or use, any property, whether real, personal or mixed;
23 provided that at all times the Commission shall avoid any appearance of
24 impropriety;
- 25 9. To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise
26 dispose of any property, whether real, personal or mixed;
- 27 10. To establish a budget and make expenditures;

1 11. To borrow money;

2 12. To appoint committees, including advisory committees comprised of
3 administrators, state nursing regulators, state legislators or their
4 representatives, and consumer representatives, and other such interested
5 persons;

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

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

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

12 h. Financing of the Commission

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

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

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

25 4. The Commission shall keep accurate accounts of all receipts and
26 disbursements. The receipts and disbursements of the Commission shall be
27 subject to the audit and accounting procedures established under its bylaws.

1 However, all receipts and disbursements of funds handled by the
2 Commission shall be audited yearly by a certified or licensed public
3 accountant, and the report of the audit shall be included in and become part
4 of the annual report of the Commission.

5 i. Qualified Immunity, Defense and Indemnification

6 1. The administrators, officers, executive director, employees and
7 representatives of the Commission shall be immune from suit and liability,
8 either personally or in their official capacity, for any claim for damage to or
9 loss of property or personal injury or other civil liability caused by or
10 arising out of any actual or alleged act, error or omission that occurred, or
11 that the person against whom the claim is made had a reasonable basis for
12 believing occurred, within the scope of Commission employment, duties or
13 responsibilities; provided that nothing in this paragraph shall be construed
14 to protect any such person from suit or liability for any damage, loss, injury
15 or liability caused by the intentional, willful or wanton misconduct of that
16 person.

17 2. The Commission shall defend any administrator, officer, executive director,
18 employee or representative of the Commission in any civil action seeking to
19 impose liability arising out of any actual or alleged act, error or omission
20 that occurred within the scope of Commission employment, duties or
21 responsibilities, or that the person against whom the claim is made had a
22 reasonable basis for believing occurred within the scope of Commission
23 employment, duties or responsibilities; provided that nothing herein shall be
24 construed to prohibit that person from retaining his or her own counsel;
25 and provided further that the actual or alleged act, error or omission did not
26 result from that person's intentional, willful or wanton misconduct.

27 3. The Commission shall indemnify and hold harmless any administrator,

- 1 proposed rule;
- 2 3. A request for comments on the proposed rule from any interested person;
- 3 and
- 4 4. The manner in which interested persons may submit notice to the
- 5 Commission of their intention to attend the public hearing and any written
- 6 comments.
- 7 e. Prior to adoption of a proposed rule, the Commission shall allow persons to
- 8 submit written data, facts, opinions and arguments, which shall be made
- 9 available to the public.
- 10 f. The Commission shall grant an opportunity for a public hearing before it adopts
- 11 a rule or amendment.
- 12 g. The Commission shall publish the place, time and date of the scheduled public
- 13 hearing.
- 14 1. Hearings shall be conducted in a manner providing each person who
- 15 wishes to comment a fair and reasonable opportunity to comment orally or
- 16 in writing. All hearings shall be recorded, and a copy shall be made
- 17 available upon request.
- 18 2. Nothing in this section shall be construed as requiring a separate hearing
- 19 on each rule. Rules may be grouped for the convenience of the Commission
- 20 at hearings required by this section.
- 21 h. If no one appears at the public hearing, the Commission may proceed with
- 22 promulgation of the proposed rule.
- 23 i. Following the scheduled hearing date, or by the close of business on the
- 24 scheduled hearing date if the hearing was not held, the Commission shall
- 25 consider all written and oral comments received.
- 26 j. The Commission shall, by majority vote of all administrators, take final action on
- 27 the proposed rule and shall determine the effective date of the rule, if any, based

1 on the rulemaking record and the full text of the rule.

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

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

23 ARTICLE IX

24 Oversight, Dispute Resolution and Enforcement

25 a. Oversight

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

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

7 b. Default, Technical Assistance and Termination

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

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

14 ii. Provide remedial training and specific technical assistance regarding
15 the default.

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

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

27 4. A state whose membership in this Compact has been terminated is

1 responsible for all assessments, obligations and liabilities incurred through
2 the effective date of termination, including obligations that extend beyond
3 the effective date of termination.

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

8 6. The defaulting state may appeal the action of the Commission by petitioning
9 the United States District Court for the District of Columbia or the federal
10 district in which the Commission has its principal offices. The prevailing
11 party shall be awarded all costs of such litigation, including reasonable
12 attorneys' fees.

13 c. Dispute Resolution

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

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

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

21 i. The party states may submit the issues in dispute to an arbitration
22 panel, which will be comprised of individuals appointed by the
23 Compact administrator in each of the affected party states and an
24 individual mutually agreed upon by the Compact administrators of all
25 the party states involved in the dispute.

26 ii. The decision of a majority of the arbitrators shall be final and
27 binding.

1 d. Enforcement

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

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

12 3. The remedies herein shall not be the exclusive remedies of the Commission.
13 The Commission may pursue any other remedies available under federal or
14 state law.

15 ARTICLE X

16 Effective Date, Withdrawal and Amendment

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

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

26 c. Any party state may withdraw from this Compact by enacting a statute repealing
27 the same. A party state's withdrawal shall not take effect until six (6) months

1 after enactment of the repealing statute.

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

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

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

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

16 ARTICLE XI

17 Construction and Severability

18 This Compact shall be liberally construed so as to effectuate the purposes thereof. The
19 provisions of this Compact shall be severable, and if any phrase, clause, sentence or
20 provision of this Compact is declared to be contrary to the constitution of any party
21 state or of the United States, or if the applicability thereof to any government, agency,
22 person or circumstance is held invalid, the validity of the remainder of this Compact
23 and the applicability thereof to any government, agency, person or circumstance shall
24 not be affected thereby. If this Compact shall be held to be contrary to the constitution
25 of any party state, this Compact shall remain in full force and effect as to the
26 remaining party states and in full force and effect as to the party state affected as to all
27 severable matters.

1 ➔Section 2. The following KRS section is repealed:

2 314.470 Nurse Licensure Compact.

3 ➔Section 3. This Act takes effect on the earlier of:

4 (1) December 31, 2018; or

5 (2) The date of legislative enactment by no fewer than 26 states of the Nurse Licensure

6 Compact that is, in form, substantially the same as the compact contained in this

7 Act.