

SB1807



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB1807

Introduced 2/26/2021, by Sen. Chapin Rose

SYNOPSIS AS INTRODUCED:

225 ILCS 65/Art. 85 heading new
225 ILCS 65/85-5 new
225 ILCS 65/85-10 new

Amends the Nurse Practice Act. Ratifies and approves the Nurse Licensure Compact, which allows for the issuance of multistate licenses that allow nurses to practice in their home state and other compact states. Provides that the Compact does not supersede existing State labor laws.

LRB102 16475 SPS 21867 b

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Nurse Practice Act is amended by adding
5 Article 85 as follows:

6 (225 ILCS 65/Art. 85 heading new)

7 ARTICLE 85. NURSE LICENSURE COMPACT

8 (225 ILCS 65/85-5 new)

9 Sec. 85-5. Nurse Licensure Compact. The State of Illinois
10 ratifies and approves the following Compact:

11 ARTICLE I

12 Findings and Declaration of Purpose

13 a. The party states find that:

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

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

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

6 4. New practice modalities and technology make
7 compliance with individual state nurse licensure laws
8 difficult and complex;

9 5. The current system of duplicative licensure for
10 nurses practicing in multiple states is cumbersome and
11 redundant for both nurses and states; and

12 6. Uniformity of nurse licensure requirements
13 throughout the states promotes public safety and public
14 health benefits.

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

16 1. Facilitate the states' responsibility to protect
17 the public's health and safety;

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

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

23 4. Promote compliance with the laws governing the
24 practice of nursing in each jurisdiction;

25 5. Invest all party states with the authority to hold
26 a nurse accountable for meeting all state practice laws in

1 the state in which the patient is located at the time care
2 is rendered through the mutual recognition of party state
3 licenses;

4 6. Decrease redundancies in the consideration and
5 issuance of nurse licenses; and

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

8 ARTICLE II

9 Definitions

10 As used in this Compact:

11 a. "Adverse action" means any administrative, civil,
12 equitable or criminal action permitted by a state's laws
13 which is imposed by a licensing board or other authority
14 against a nurse, including actions against an individual's
15 license or multistate licensure privilege such as
16 revocation, suspension, probation, monitoring of the
17 licensee, limitation on the licensee's practice, or any
18 other encumbrance on licensure affecting a nurse's
19 authorization to practice, including issuance of a cease
20 and desist action.

21 b. "Alternative program" means a non-disciplinary
22 monitoring program approved by a licensing board.

23 c. "Coordinated licensure information system" means an
24 integrated process for collecting, storing and sharing

1 information on nurse licensure and enforcement activities
2 related to nurse licensure laws that is administered by a
3 nonprofit organization composed of and controlled by
4 licensing boards.

5 d. "Current significant investigative information"
6 means:

7 1. Investigative information that a licensing
8 board, after a preliminary inquiry that includes
9 notification and an opportunity for the nurse to
10 respond, if required by state law, has reason to
11 believe is not groundless and, if proved true, would
12 indicate more than a minor infraction; or

13 2. Investigative information that indicates that
14 the nurse represents an immediate threat to public
15 health and safety regardless of whether the nurse has
16 been notified and had an opportunity to respond.

17 e. "Encumbrance" means a revocation or suspension of,
18 or any limitation on, the full and unrestricted practice
19 of nursing imposed by a licensing board.

20 f. "Home state" means the party state which is the
21 nurse's primary state of residence.

22 g. "Licensing board" means a party state's regulatory
23 body responsible for issuing nurse licenses.

24 h. "Multistate license" means a license to practice as
25 a registered or a licensed practical/vocational nurse
26 (LPN/VN) issued by a home state licensing board that

1 authorizes the licensed nurse to practice in all party
2 states under a multistate licensure privilege.

3 i. "Multistate licensure privilege" means a legal
4 authorization associated with a multistate license
5 permitting the practice of nursing as either a registered
6 nurse (RN) or LPN/VN in a remote state.

7 j. "Nurse" means RN or LPN/VN, as those terms are
8 defined by each party state's practice laws.

9 k. "Party state" means any state that has adopted this
10 Compact.

11 l. "Remote state" means a party state, other than the
12 home state.

13 m. "Single-state license" means a nurse license issued
14 by a party state that authorizes practice only within the
15 issuing state and does not include a multistate licensure
16 privilege to practice in any other party state.

17 n. "State" means a state, territory or possession of
18 the United States and the District of Columbia.

19 o. "State practice laws" means a party state's laws,
20 rules and regulations that govern the practice of nursing,
21 define the scope of nursing practice, and create the
22 methods and grounds for imposing discipline. "State
23 practice laws" do not include requirements necessary to
24 obtain and retain a license, except for qualifications or
25 requirements of the home state.

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

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

12 4. Has successfully passed an NCLEX-RN® or NCLEX-PN®
13 Examination or recognized predecessor, as applicable;

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

16 6. Has submitted, in connection with an application
17 for initial licensure or licensure by endorsement,
18 fingerprints or other biometric data for the purpose of
19 obtaining criminal history record information from the
20 Federal Bureau of Investigation and the agency responsible
21 for retaining that state's criminal records;

22 7. Has not been convicted or found guilty, or has
23 entered into an agreed disposition, of a felony offense
24 under applicable state or federal criminal law;

25 8. Has not been convicted or found guilty, or has
26 entered into an agreed disposition, of a misdemeanor

1 offense related to the practice of nursing as determined
2 on a case-by-case basis;

3 9. Is not currently enrolled in an alternative
4 program;

5 10. Is subject to self-disclosure requirements
6 regarding current participation in an alternative program;
7 and

8 11. Has a valid United States Social Security number.

9 d. All party states shall be authorized, in accordance
10 with existing state due process law, to take adverse action
11 against a nurse's multistate licensure privilege such as
12 revocation, suspension, probation or any other action that
13 affects a nurse's authorization to practice under a multistate
14 licensure privilege, including cease and desist actions. If a
15 party state takes such action, it shall promptly notify the
16 administrator of the coordinated licensure information system.
17 The administrator of the coordinated licensure information
18 system shall promptly notify the home state of any such
19 actions by remote states.

20 e. A nurse practicing in a party state must comply with the
21 state practice laws of the state in which the client is located
22 at the time service is provided. The practice of nursing is not
23 limited to patient care, but shall include all nursing
24 practice as defined by the state practice laws of the party
25 state in which the client is located. The practice of nursing
26 in a party state under a multistate licensure privilege will

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

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

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

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

20 2. A nurse who fails to satisfy the multistate
21 licensure requirements in Article III.c. due to a
22 disqualifying event occurring after this Compact's
23 effective date shall be ineligible to retain or renew a
24 multistate license, and the nurse's multistate license
25 shall be revoked or deactivated in accordance with
26 applicable rules adopted by the Interstate Commission of

1 Nurse Licensure Compact Administrators ("Commission").

2 ARTICLE IV

3 Applications for Licensure in a Party State

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

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

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

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

23 2. A multistate license shall not be issued by the new
24 home state until the nurse provides satisfactory evidence

1 of a change in primary state of residence to the new home
2 state and satisfies all applicable requirements to obtain
3 a multistate license from the new home state.

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

8 ARTICLE V

9 Additional Authorities Invested in Party State Licensing
10 Boards

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

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

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

18 ii. For purposes of taking adverse action, the
19 home state licensing board shall give the same
20 priority and effect to reported conduct received from
21 a remote state as it would if such conduct had occurred
22 within the home state. In so doing, the home state
23 shall apply its own state laws to determine
24 appropriate action.

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

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

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

26 5. Obtain and submit, for each nurse licensure

1 applicant, fingerprint or other biometric-based
2 information to the Federal Bureau of Investigation for
3 criminal background checks, receive the results of the
4 Federal Bureau of Investigation record search on criminal
5 background checks and use the results in making licensure
6 decisions.

7 6. If otherwise permitted by state law, recover from
8 the affected nurse the costs of investigations and
9 disposition of cases resulting from any adverse action
10 taken against that nurse.

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

14 b. If adverse action is taken by the home state against a
15 nurse's multistate license, the nurse's multistate licensure
16 privilege to practice in all other party states shall be
17 deactivated until all encumbrances have been removed from the
18 multistate license. All home state disciplinary orders that
19 impose adverse action against a nurse's multistate license
20 shall include a statement that the nurse's multistate
21 licensure privilege is deactivated in all party states during
22 the pendency of the order.

23 c. Nothing in this Compact shall override a party state's
24 decision that participation in an alternative program may be
25 used in lieu of adverse action. The home state licensing board
26 shall deactivate the multistate licensure privilege under the

1 multistate license of any nurse for the duration of the
2 nurse's participation in an alternative program.

3 ARTICLE VI

4 Coordinated Licensure Information System and Exchange of
5 Information

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

13 b. The Commission, in consultation with the administrator
14 of the coordinated licensure information system, shall
15 formulate necessary and proper procedures for the
16 identification, collection and exchange of information under
17 this Compact.

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

1 d. Current significant investigative information and
2 participation in nonpublic or confidential alternative
3 programs shall be transmitted through the coordinated
4 licensure information system only to party state licensing
5 boards.

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

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

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

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

26 1. Identifying information;

- 1 2. Licensure data;
- 2 3. Information related to alternative program
- 3 participation; and
- 4 4. Other information that may facilitate the
- 5 administration of this Compact, as determined by
- 6 Commission rules.
- 7 i. The Compact administrator of a party state shall
- 8 provide all investigative documents and information requested
- 9 by another party state.

10 ARTICLE VII

11 Establishment of the Interstate Commission of Nurse Licensure

12 Compact Administrators

13 a. The party states hereby create and establish a joint

14 public entity known as the Interstate Commission of Nurse

15 Licensure Compact Administrators.

16 1. The Commission is an instrumentality of the party

17 states.

18 2. Venue is proper, and judicial proceedings by or

19 against the Commission shall be brought solely and

20 exclusively, in a court of competent jurisdiction where

21 the principal office of the Commission is located. The

22 Commission may waive venue and jurisdictional defenses to

23 the extent it adopts or consents to participate in

24 alternative dispute resolution proceedings.

1 3. Nothing in this Compact shall be construed to be a
2 waiver of sovereign immunity.

3 b. Membership, Voting and Meetings

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

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

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

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

1 Article VIII.

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

4 i. Noncompliance of a party state with its
5 obligations under this Compact;

6 ii. The employment, compensation, discipline or
7 other personnel matters, practices or procedures
8 related to specific employees or other matters related
9 to the Commission's internal personnel practices and
10 procedures;

11 iii. Current, threatened or reasonably anticipated
12 litigation;

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

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

17 vi. Disclosure of trade secrets or commercial or
18 financial information that is privileged or
19 confidential;

20 vii. Disclosure of information of a personal
21 nature where disclosure would constitute a clearly
22 unwarranted invasion of personal privacy;

23 viii. Disclosure of investigatory records compiled
24 for law enforcement purposes;

25 ix. Disclosure of information related to any
26 reports prepared by or on behalf of the Commission for

1 the purpose of investigation of compliance with this
2 Compact; or

3 x. Matters specifically exempted from disclosure
4 by federal or state statute.

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

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

23 1. Establishing the fiscal year of the Commission;

24 2. Providing reasonable standards and procedures:

25 i. For the establishment and meetings of other
26 committees; and

1 ii. Governing any general or specific delegation
2 of any authority or function of the Commission;

3 3. Providing reasonable procedures for calling and
4 conducting meetings of the Commission, ensuring reasonable
5 advance notice of all meetings and providing an
6 opportunity for attendance of such meetings by interested
7 parties, with enumerated exceptions designed to protect
8 the public's interest, the privacy of individuals, and
9 proprietary information, including trade secrets. The
10 Commission may meet in closed session only after a
11 majority of the administrators vote to close a meeting in
12 whole or in part. As soon as practicable, the Commission
13 must make public a copy of the vote to close the meeting
14 revealing the vote of each administrator, with no proxy
15 votes allowed;

16 4. Establishing the titles, duties and authority and
17 reasonable procedures for the election of the officers of
18 the Commission;

19 5. Providing reasonable standards and procedures for
20 the establishment of the personnel policies and programs
21 of the Commission. Notwithstanding any civil service or
22 other similar laws of any party state, the bylaws shall
23 exclusively govern the personnel policies and programs of
24 the Commission; and

25 6. Providing a mechanism for winding up the operations
26 of the Commission and the equitable disposition of any

1 surplus funds that may exist after the termination of this
2 Compact after the payment or reserving of all of its debts
3 and obligations;

4 d. The Commission shall publish its bylaws and rules, and
5 any amendments thereto, in a convenient form on the website of
6 the Commission.

7 e. The Commission shall maintain its financial records in
8 accordance with the bylaws.

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

11 g. The Commission shall have the following powers:

12 1. To promulgate uniform rules to facilitate and
13 coordinate implementation and administration of this
14 Compact. The rules shall have the force and effect of law
15 and shall be binding in all party states;

16 2. To bring and prosecute legal proceedings or actions
17 in the name of the Commission, provided that the standing
18 of any licensing board to sue or be sued under applicable
19 law shall not be affected;

20 3. To purchase and maintain insurance and bonds;

21 4. To borrow, accept or contract for services of
22 personnel, including, but not limited to, employees of a
23 party state or nonprofit organizations;

24 5. To cooperate with other organizations that
25 administer state compacts related to the regulation of
26 nursing, including but not limited to sharing

1 administrative or staff expenses, office space or other
2 resources;

3 6. To hire employees, elect or appoint officers, fix
4 compensation, define duties, grant such individuals
5 appropriate authority to carry out the purposes of this
6 Compact, and to establish the Commission's personnel
7 policies and programs relating to conflicts of interest,
8 qualifications of personnel and other related personnel
9 matters;

10 7. To accept any and all appropriate donations, grants
11 and gifts of money, equipment, supplies, materials and
12 services, and to receive, utilize and dispose of the same;
13 provided that at all times the Commission shall avoid any
14 appearance of impropriety or conflict of interest;

15 8. To lease, purchase, accept appropriate gifts or
16 donations of, or otherwise to own, hold, improve or use,
17 any property, whether real, personal or mixed; provided
18 that at all times the Commission shall avoid any
19 appearance of impropriety;

20 9. To sell, convey, mortgage, pledge, lease, exchange,
21 abandon or otherwise dispose of any property, whether
22 real, personal or mixed;

23 10. To establish a budget and make expenditures;

24 11. To borrow money;

25 12. To appoint committees, including advisory
26 committees comprised of administrators, state nursing

1 regulators, state legislators or their representatives,
2 and consumer representatives, and other such interested
3 persons;

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

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

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

11 h. Financing of the Commission

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

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

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

1 4. The Commission shall keep accurate accounts of all
2 receipts and disbursements. The receipts and disbursements
3 of the Commission shall be subject to the audit and
4 accounting procedures established under its bylaws.
5 However, all receipts and disbursements of funds handled
6 by the Commission shall be audited yearly by a certified
7 or licensed public accountant, and the report of the audit
8 shall be included in and become part of the annual report
9 of the Commission.

10 i. Qualified Immunity, Defense and Indemnification

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

25 2. The Commission shall defend any administrator,
26 officer, executive director, employee or representative of

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

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

25 ARTICLE VIII

1 Rulemaking

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

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

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

15 1. On the website of the Commission; and

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

19 d. The notice of proposed rulemaking shall include:

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

22 2. The text of the proposed rule or amendment, and the
23 reason for the proposed rule;

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

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

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

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

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

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

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

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

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

26 j. The Commission shall, by majority vote of all

1 administrators, take final action on the proposed rule and
2 shall determine the effective date of the rule, if any, based
3 on the rulemaking record and the full text of the rule.

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

13 1. Meet an imminent threat to public health, safety or
14 welfare;

15 2. Prevent a loss of Commission or party state funds;
16 or

17 3. Meet a deadline for the promulgation of an
18 administrative rule that is required by federal law or
19 rule.

20 1. The Commission may direct revisions to a previously
21 adopted rule or amendment for purposes of correcting
22 typographical errors, errors in format, errors in consistency
23 or grammatical errors. Public notice of any revisions shall be
24 posted on the website of the Commission. The revision shall be
25 subject to challenge by any person for a period of thirty (30)
26 days after posting. The revision may be challenged only on

1 grounds that the revision results in a material change to a
2 rule. A challenge shall be made in writing, and delivered to
3 the Commission, prior to the end of the notice period. If no
4 challenge is made, the revision will take effect without
5 further action. If the revision is challenged, the revision
6 may not take effect without the approval of the Commission.

7 ARTICLE IX

8 Oversight, Dispute Resolution and Enforcement

9 a. Oversight

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

13 2. The Commission shall be entitled to receive service
14 of process in any proceeding that may affect the powers,
15 responsibilities or actions of the Commission, and shall
16 have standing to intervene in such a proceeding for all
17 purposes. Failure to provide service of process in such
18 proceeding to the Commission shall render a judgment or
19 order void as to the Commission, this Compact or
20 promulgated rules.

21 b. Default, Technical Assistance and Termination

22 1. If the Commission determines that a party state has
23 defaulted in the performance of its obligations or
24 responsibilities under this Compact or the promulgated

1 rules, the Commission shall:

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

6 ii. Provide remedial training and specific
7 technical assistance regarding the default.

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

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

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

1 effective date of termination.

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

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

12 c. Dispute Resolution

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

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

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

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

1 administrators of all the party states involved in the
2 dispute.

3 ii. The decision of a majority of the arbitrators
4 shall be final and binding.

5 d. Enforcement

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

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

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

22 ARTICLE X

23 Effective Date, Withdrawal and Amendment

24 a. This Compact shall become effective and binding on the

1 earlier of the date of legislative enactment of this Compact
2 into law by no less than twenty-six (26) states or December 31,
3 2018. All party states to this Compact, that also were parties
4 to the prior Nurse Licensure Compact, superseded by this
5 Compact, ("Prior Compact"), shall be deemed to have withdrawn
6 from said Prior Compact within six (6) months after the
7 effective date of this Compact.

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

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

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

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

26 f. This Compact may be amended by the party states. No

1 amendment to this Compact shall become effective and binding
2 upon the party states unless and until it is enacted into the
3 laws of all party states.

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

8 ARTICLE XI

9 Construction and Severability

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

1 (225 ILCS 65/85-10 new)

2 Sec. 85-10. State labor laws. The Nurse Licensure Compact

3 does not supersede existing State labor laws.