

As Introduced

**133rd General Assembly
Regular Session
2019-2020**

H. B. No. 765

Representative Perales

A BILL

To enact sections 4723.11 and 4723.111 of the 1
Revised Code to enter into the Nurse Licensure 2
Compact. 3

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4723.11 and 4723.111 of the 4
Revised Code be enacted to read as follows: 5

Sec. 4723.11. The "Nurse Licensure Compact" is hereby 6
ratified, enacted into law, and entered into by the state of 7
Ohio as a party to the compact with any other state that has 8
legally joined in the compact as follows: 9

Nurse Licensure Compact 10

Approved by the May 4, 2015 Special Delegate Assembly 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 the 15
degree of compliance with and the effectiveness of enforcement 16
activities related to state nurse licensure laws; 17

2. Violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public; 18
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3. The expanded mobility of nurses and the use of advanced communication technologies as part of our nation's health care delivery system require greater coordination and cooperation among states in the areas of nurse licensure and regulation; 21
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4. New practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex; 25
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5. The current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant for both nurses and states; and 28
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6. Uniformity of nurse licensure requirements throughout the states promotes public safety and public health benefits. 31
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b. The general purposes of this Compact are to: 33

1. Facilitate the states' responsibility to protect the public's health and safety; 34
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2. Ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation; 36
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3. Facilitate the exchange of information between party states in the areas of nurse regulation, investigation and adverse actions; 38
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4. Promote compliance with the laws governing the practice of nursing in each jurisdiction; 41
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5. Invest all party states with the authority to hold a nurse accountable for meeting all state practice laws in the 43
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state in which the patient is located at the time care is 45

rendered through the mutual recognition of party state licenses; 46

6. Decrease redundancies in the consideration and issuance 47
of nurse licenses; and 48

7. Provide opportunities for interstate practice by nurses 49
who meet uniform licensure requirements. 50

ARTICLE II 51

Definitions 52

As used in this Compact: 53

a. "Adverse action" means any administrative, civil, 54
equitable or criminal action permitted by a state's laws which 55
is imposed by a licensing board or other authority against a 56
nurse, including actions against an individual's license or 57
multistate licensure privilege such as revocation, suspension, 58
probation, monitoring of the licensee, limitation on the 59
licensee's practice, or any other encumbrance on licensure 60
affecting a nurse's authorization to practice, including 61
issuance of a cease and desist action. 62

b. "Alternative program" means a non-disciplinary 63
monitoring program approved by a licensing board. 64

c. "Coordinated licensure information system" means an 65
integrated process for collecting, storing and sharing 66
information on nurse licensure and enforcement activities 67
related to nurse licensure laws that is administered by a 68
nonprofit organization composed of and controlled by licensing 69
boards. 70

d. "Current significant investigative information" means: 71

1. Investigative information that a licensing board, after 72
a preliminary inquiry that includes notification and an 73
opportunity for the nurse to respond, if required by state law, 74
has reason to believe is not groundless and, if proved true, 75
would indicate more than a minor infraction; or 76

2. Investigative information that indicates that the nurse 77
represents an immediate threat to public health and safety 78
regardless of whether the nurse has been notified and had an 79
opportunity to respond. 80

e. "Encumbrance" means a revocation or suspension of, or 81
any limitation on, the full and unrestricted practice of nursing 82
imposed by a licensing board. 83

f. "Home state" means the party state which is the nurse's 84
primary state of residence. 85

g. "Licensing board" means a party state's regulatory body 86
responsible for issuing nurse licenses. 87

h. "Multistate license" means a license to practice as a 88
registered or a licensed practical/vocational nurse (LPN/VN) 89
issued by a home state licensing board that authorizes the 90
licensed nurse to practice in all party states under a 91
multistate licensure privilege. 92

i. "Multistate licensure privilege" means a legal 93
authorization associated with a multistate license permitting 94
the practice of nursing as either a registered nurse (RN) or 95
LPN/VN in a remote state. 96

j. "Nurse" means RN or LPN/VN, as those terms are defined 97
by each party state's practice laws. 98

k. "Party state" means any state that has adopted this 99

<u>Compact.</u>	100
<u>l. "Remote state" means a party state, other than the home state.</u>	101
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<u>m. "Single-state license" means a nurse license issued by a party state that authorizes practice only within the issuing state and does not include a multistate licensure privilege to practice in any other party state.</u>	103
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<u>n. "State" means a state, territory or possession of the United States and the District of Columbia.</u>	107
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<u>o. "State practice laws" means a party state's laws, rules and regulations that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing discipline. "State practice laws" do not include requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.</u>	109
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<u>b. A state must implement procedures for considering the criminal history records of applicants for initial multistate license or licensure by endorsement. Such procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an</u>	123
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<u>applicant's criminal history record information from the Federal</u>	128
<u>Bureau of Investigation and the agency responsible for retaining</u>	129
<u>that state's criminal records.</u>	130
<u>c. Each party state shall require the following for an</u>	131
<u>applicant to obtain or retain a multistate license in the home</u>	132
<u>state:</u>	133
<u>1. Meets the home state's qualifications for licensure or</u>	134
<u>renewal of licensure, as well as, all other applicable state</u>	135
<u>laws;</u>	136
<u>2. i. Has graduated or is eligible to graduate from a</u>	137
<u>licensing board-approved RN or LPN/VN prelicensure education</u>	138
<u>program; or</u>	139
<u>ii. Has graduated from a foreign RN or LPN/VN prelicensure</u>	140
<u>education program that (a) has been approved by the authorized</u>	141
<u>accrediting body in the applicable country and (b) has been</u>	142
<u>verified by an independent credentials review agency to be</u>	143
<u>comparable to a licensing board-approved prelicensure education</u>	144
<u>program;</u>	145
<u>3. Has, if a graduate of a foreign prelicensure education</u>	146
<u>program not taught in English or if English is not the</u>	147
<u>individual's native language, successfully passed an English</u>	148
<u>proficiency examination that includes the components of reading,</u>	149
<u>speaking, writing and listening;</u>	150
<u>4. Has successfully passed an NCLEX-RN® or NCLEX-PN®</u>	151
<u>Examination or recognized predecessor, as applicable;</u>	152
<u>5. Is eligible for or holds an active, unencumbered</u>	153
<u>license;</u>	154
<u>6. Has submitted, in connection with an application for</u>	155

initial licensure or licensure by endorsement, fingerprints or 156
other biometric data for the purpose of obtaining criminal 157
history record information from the Federal Bureau of 158
Investigation and the agency responsible for retaining that 159
state's criminal records; 160

7. Has not been convicted or found guilty, or has entered 161
into an agreed disposition, of a felony offense under applicable 162
state or federal criminal law; 163

8. Has not been convicted or found guilty, or has entered 164
into an agreed disposition, of a misdemeanor offense related to 165
the practice of nursing as determined on a case-by-case basis; 166

9. Is not currently enrolled in an alternative program; 167

10. Is subject to self-disclosure requirements regarding 168
current participation in an alternative program; and 169

11. Has a valid United States Social Security number. 170

d. All party states shall be authorized, in accordance 171
with existing state due process law, to take adverse action 172
against a nurse's multistate licensure privilege such as 173
revocation, suspension, probation or any other action that 174
affects a nurse's authorization to practice under a multistate 175
licensure privilege, including cease and desist actions. If a 176
party state takes such action, it shall promptly notify the 177
administrator of the coordinated licensure information system. 178
The administrator of the coordinated licensure information 179
system shall promptly notify the home state of any such actions 180
by remote states. 181

e. A nurse practicing in a party state must comply with 182
the state practice laws of the state in which the client is 183
located at the time service is provided. The practice of nursing 184

is not limited to patient care, but shall include all nursing 185
practice as defined by the state practice laws of the party 186
state in which the client is located. The practice of nursing in 187
a party state under a multistate licensure privilege will 188
subject a nurse to the jurisdiction of the licensing board, the 189
courts and the laws of the party state in which the client is 190
located at the time service is provided. 191

f. Individuals not residing in a party state shall 192
continue to be able to apply for a party state's single-state 193
license as provided under the laws of each party state. However, 194
the single-state license granted to these individuals will not 195
be recognized as granting the privilege to practice nursing in 196
any other party state. Nothing in this Compact shall affect the 197
requirements established by a party state for the issuance of a 198
single-state license. 199

g. Any nurse holding a home state multistate license, on 200
the effective date of this Compact, may retain and renew the 201
multistate license issued by the nurse's then-current home 202
state, provided that: 203

1. A nurse, who changes primary state of residence after 204
this Compact's effective date, must meet all applicable Article 205
III.c. requirements to obtain a multistate license from a new 206
home state. 207

2. A nurse who fails to satisfy the multistate licensure 208
requirements in Article III.c. due to a disqualifying event 209
occurring after this Compact's effective date shall be 210
ineligible to retain or renew a multistate license, and the 211
nurse's multistate license shall be revoked or deactivated in 212
accordance with applicable rules adopted by the Interstate 213
Commission of Nurse Licensure Compact Administrators 214

("Commission"). 215

ARTICLE IV 216

Applications for Licensure in a Party State 217

a. Upon application for a multistate license, the 218
licensing board in the issuing party state shall ascertain, 219
through the coordinated licensure information system, whether 220
the applicant has ever held, or is the holder of, a license 221
issued by any other state, whether there are any encumbrances on 222
any license or multistate licensure privilege held by the 223
applicant, whether any adverse action has been taken against any 224
license or multistate licensure privilege held by the applicant 225
and whether the applicant is currently participating in an 226
alternative program. 227

b. A nurse may hold a multistate license, issued by the 228
home state, in only one party state at a time. 229

c. If a nurse changes primary state of residence by moving 230
between two party states, the nurse must apply for licensure in 231
the new home state, and the multistate license issued by the 232
prior home state will be deactivated in accordance with 233
applicable rules adopted by the Commission. 234

1. The nurse may apply for licensure in advance of a 235
change in primary state of residence. 236

2. A multistate license shall not be issued by the new 237
home state until the nurse provides satisfactory evidence of a 238
change in primary state of residence to the new home state and 239
satisfies all applicable requirements to obtain a multistate 240
license from the new home state. 241

d. If a nurse changes primary state of residence by moving 242

from a party state to a non-party state, the multistate license 243
issued by the prior home state will convert to a single-state 244
license, valid only in the former home state. 245

ARTICLE V 246

Additional Authorities Invested in Party State Licensing Boards 247

a. In addition to the other powers conferred by state law, 248
a licensing board shall have the authority to: 249

1. Take adverse action against a nurse's multistate 250
licensure privilege to practice within that party state. 251

i. Only the home state shall have the power to take 252
adverse action against a nurse's license issued by the home 253
state. 254

ii. For purposes of taking adverse action, the home state 255
licensing board shall give the same priority and effect to 256
reported conduct received from a remote state as it would if 257
such conduct had occurred within the home state. In so doing, 258
the home state shall apply its own state laws to determine 259
appropriate action. 260

2. Issue cease and desist orders or impose an encumbrance 261
on a nurse's authority to practice within that party state. 262

3. Complete any pending investigations of a nurse who 263
changes primary state of residence during the course of such 264
investigations. The licensing board shall also have the 265
authority to take appropriate action(s) and shall promptly 266
report the conclusions of such investigations to the 267
administrator of the coordinated licensure information system. 268
The administrator of the coordinated licensure information 269
system shall promptly notify the new home state of any such 270

<u>actions.</u>	271
<u>4. Issue subpoenas for both hearings and investigations</u>	272
<u>that require the attendance and testimony of witnesses, as well</u>	273
<u>as, the production of evidence. Subpoenas issued by a licensing</u>	274
<u>board in a party state for the attendance and testimony of</u>	275
<u>witnesses or the production of evidence from another party state</u>	276
<u>shall be enforced in the latter state by any court of competent</u>	277
<u>jurisdiction, according to the practice and procedure of that</u>	278
<u>court applicable to subpoenas issued in proceedings pending</u>	279
<u>before it. The issuing authority shall pay any witness fees,</u>	280
<u>travel expenses, mileage and other fees required by the service</u>	281
<u>statutes of the state in which the witnesses or evidence are</u>	282
<u>located.</u>	283
<u>5. Obtain and submit, for each nurse licensure applicant,</u>	284
<u>fingerprint or other biometric-based information to the Federal</u>	285
<u>Bureau of Investigation for criminal background checks, receive</u>	286
<u>the results of the Federal Bureau of Investigation record search</u>	287
<u>on criminal background checks and use the results in making</u>	288
<u>licensure decisions.</u>	289
<u>6. If otherwise permitted by state law, recover from the</u>	290
<u>affected nurse the costs of investigations and disposition of</u>	291
<u>cases resulting from any adverse action taken against that</u>	292
<u>nurse.</u>	293
<u>7. Take adverse action based on the factual findings of</u>	294
<u>the remote state, provided that the licensing board follows its</u>	295
<u>own procedures for taking such adverse action.</u>	296
<u>b. If adverse action is taken by the home state against a</u>	297
<u>nurse's multistate license, the nurse's multistate licensure</u>	298
<u>privilege to practice in all other party states shall be</u>	299

deactivated until all encumbrances have been removed from the 300
multistate license. All home state disciplinary orders that 301
impose adverse action against a nurse's multistate license shall 302
include a statement that the nurse's multistate licensure 303
privilege is deactivated in all party states during the pendency 304
of the order. 305

c. Nothing in this Compact shall override a party state's 306
decision that participation in an alternative program may be 307
used in lieu of adverse action. The home state licensing board 308
shall deactivate the multistate licensure privilege under the 309
multistate license of any nurse for the duration of the nurse's 310
participation in an alternative program. 311

ARTICLE VI 312

Coordinated Licensure Information System and Exchange of 313
Information 314

a. All party states shall participate in a coordinated 315
licensure information system of all licensed registered nurses 316
(RNs) and licensed practical/vocational nurses (LPNs/VNs). This 317
system will include information on the licensure and 318
disciplinary history of each nurse, as submitted by party 319
states, to assist in the coordination of nurse licensure and 320
enforcement efforts. 321

b. The Commission, in consultation with the administrator 322
of the coordinated licensure information system, shall formulate 323
necessary and proper procedures for the identification, 324
collection and exchange of information under this Compact. 325

c. All licensing boards shall promptly report to the 326
coordinated licensure information system any adverse action, any 327
current significant investigative information, denials of 328

applications (with the reasons for such denials) and nurse 329
participation in alternative programs known to the licensing 330
board regardless of whether such participation is deemed 331
nonpublic or confidential under state law. 332

d. Current significant investigative information and 333
participation in nonpublic or confidential alternative programs 334
shall be transmitted through the coordinated licensure 335
information system only to party state licensing boards. 336

e. Notwithstanding any other provision of law, all party 337
state licensing boards contributing information to the 338
coordinated licensure information system may designate 339
information that may not be shared with non-party states or 340
disclosed to other entities or individuals without the express 341
permission of the contributing state. 342

f. Any personally identifiable information obtained from 343
the coordinated licensure information system by a party state 344
licensing board shall not be shared with non-party states or 345
disclosed to other entities or individuals except to the extent 346
permitted by the laws of the party state contributing the 347
information. 348

g. Any information contributed to the coordinated 349
licensure information system that is subsequently required to be 350
expunged by the laws of the party state contributing that 351
information shall also be expunged from the coordinated 352
licensure information system. 353

h. The Compact administrator of each party state shall 354
furnish a uniform data set to the Compact administrator of each 355
other party state, which shall include, at a minimum: 356

1. Identifying information; 357

<u>2. Licensure data;</u>	358
<u>3. Information related to alternative program participation; and</u>	359 360
<u>4. Other information that may facilitate the administration of this Compact, as determined by Commission rules.</u>	361 362 363
<u>i. The Compact administrator of a party state shall provide all investigative documents and information requested by another party state.</u>	364 365 366
<u>ARTICLE VII</u>	367
<u>Establishment of the Interstate Commission of Nurse Licensure Compact Administrators</u>	368 369
<u>a. The party states hereby create and establish a joint public entity known as the Interstate Commission of Nurse Licensure Compact Administrators.</u>	370 371 372
<u>1. The Commission is an instrumentality of the party states.</u>	373 374
<u>2. Venue is proper, and judicial proceedings by or against the Commission shall be brought solely and exclusively, in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.</u>	375 376 377 378 379 380
<u>3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.</u>	381 382
<u>b. Membership, Voting and Meetings</u>	383
<u>1. Each party state shall have and be limited to one</u>	384

administrator. The head of the state licensing board or designee 385
shall be the administrator of this Compact for each party state. 386
Any administrator may be removed or suspended from office as 387
provided by the law of the state from which the Administrator is 388
appointed. Any vacancy occurring in the Commission shall be 389
filled in accordance with the laws of the party state in which 390
the vacancy exists. 391

2. Each administrator shall be entitled to one (1) vote 392
with regard to the promulgation of rules and creation of bylaws 393
and shall otherwise have an opportunity to participate in the 394
business and affairs of the Commission. An administrator shall 395
vote in person or by such other means as provided in the bylaws. 396
The bylaws may provide for an administrator's participation in 397
meetings by telephone or other means of communication. 398

3. The Commission shall meet at least once during each 399
calendar year. Additional meetings shall be held as set forth in 400
the bylaws or rules of the commission. 401

4. All meetings shall be open to the public, and public 402
notice of meetings shall be given in the same manner as required 403
under the rulemaking provisions in Article VIII. 404

5. The Commission may convene in a closed, nonpublic 405
meeting if the Commission must discuss: 406

i. Noncompliance of a party state with its obligations 407
under this Compact; 408

ii. The employment, compensation, discipline or other 409
personnel matters, practices or procedures related to specific 410
employees or other matters related to the Commission's internal 411
personnel practices and procedures; 412

iii. Current, threatened or reasonably anticipated 413

<u>litigation;</u>	414
<u>iv. Negotiation of contracts for the purchase or sale of</u>	415
<u>goods, services or real estate;</u>	416
<u>v. Accusing any person of a crime or formally censuring</u>	417
<u>any person;</u>	418
<u>vi. Disclosure of trade secrets or commercial or financial</u>	419
<u>information that is privileged or confidential;</u>	420
<u>vii. Disclosure of information of a personal nature where</u>	421
<u>disclosure would constitute a clearly unwarranted invasion of</u>	422
<u>personal privacy;</u>	423
<u>viii. Disclosure of investigatory records compiled for law</u>	424
<u>enforcement purposes;</u>	425
<u>ix. Disclosure of information related to any reports</u>	426
<u>prepared by or on behalf of the Commission for the purpose of</u>	427
<u>investigation of compliance with this Compact; or</u>	428
<u>x. Matters specifically exempted from disclosure by</u>	429
<u>federal or state statute.</u>	430
<u>6. If a meeting, or portion of a meeting, is closed</u>	431
<u>pursuant to this provision, the Commission's legal counsel or</u>	432
<u>designee shall certify that the meeting may be closed and shall</u>	433
<u>reference each relevant exempting provision. The Commission</u>	434
<u>shall keep minutes that fully and clearly describe all matters</u>	435
<u>discussed in a meeting and shall provide a full and accurate</u>	436
<u>summary of actions taken, and the reasons therefor, including a</u>	437
<u>description of the views expressed. All documents considered in</u>	438
<u>connection with an action shall be identified in such minutes.</u>	439
<u>All minutes and documents of a closed meeting shall remain under</u>	440
<u>seal, subject to release by a majority vote of the Commission or</u>	441

order of a court of competent jurisdiction. 442

c. The Commission shall, by a majority vote of the 443
administrators, prescribe bylaws or rules to govern its conduct 444
as may be necessary or appropriate to carry out the purposes and 445
exercise the powers of this Compact, including but not limited 446
to: 447

1. Establishing the fiscal year of the Commission; 448

2. Providing reasonable standards and procedures: 449

i. For the establishment and meetings of other committees; 450
and 451

ii. Governing any general or specific delegation of any 452
authority or function of the Commission; 453

3. Providing reasonable procedures for calling and 454
conducting meetings of the Commission, ensuring reasonable 455
advance notice of all meetings and providing an opportunity for 456
attendance of such meetings by interested parties, with 457
enumerated exceptions designed to protect the public's interest, 458
the privacy of individuals, and proprietary information, 459
including trade secrets. The Commission may meet in closed 460
session only after a majority of the administrators vote to 461
close a meeting in whole or in part. As soon as practicable, the 462
Commission must make public a copy of the vote to close the 463
meeting revealing the vote of each administrator, with no proxy 464
votes allowed; 465

4. Establishing the titles, duties and authority and 466
reasonable procedures for the election of the officers of the 467
Commission; 468

5. Providing reasonable standards and procedures for the 469

establishment of the personnel policies and programs of the 470
Commission. Notwithstanding any civil service or other similar 471
laws of any party state, the bylaws shall exclusively govern the 472
personnel policies and programs of the Commission; and 473

6. Providing a mechanism for winding up the operations of 474
the Commission and the equitable disposition of any surplus 475
funds that may exist after the termination of this Compact after 476
the payment or reserving of all of its debts and obligations; 477

d. The Commission shall publish its bylaws and rules, and 478
any amendments thereto, in a convenient form on the website of 479
the Commission. 480

e. The Commission shall maintain its financial records in 481
accordance with the bylaws. 482

f. The Commission shall meet and take such actions as are 483
consistent with the provisions of this Compact and the bylaws. 484

g. The Commission shall have the following powers: 485

1. To promulgate uniform rules to facilitate and 486
coordinate implementation and administration of this Compact. 487
The rules shall have the force and effect of law and shall be 488
binding in all party states; 489

2. To bring and prosecute legal proceedings or actions in 490
the name of the Commission, provided that the standing of any 491
licensing board to sue or be sued under applicable law shall not 492
be affected; 493

3. To purchase and maintain insurance and bonds; 494

4. To borrow, accept or contract for services of 495
personnel, including, but not limited to, employees of a party 496
state or nonprofit organizations; 497

5. To cooperate with other organizations that administer state compacts related to the regulation of nursing, including but not limited to sharing administrative or staff expenses, office space or other resources; 498
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6. To hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of this Compact, and to establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel and other related personnel matters; 502
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7. To accept any and all appropriate donations, grants and gifts of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same; provided that at all times the Commission shall avoid any appearance of impropriety or conflict of interest; 508
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8. To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, whether real, personal or mixed; provided that at all times the Commission shall avoid any appearance of impropriety; 513
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9. To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, whether real, personal or mixed; 517
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10. To establish a budget and make expenditures; 520
11. To borrow money; 521
12. To appoint committees, including advisory committees comprised of administrators, state nursing regulators, state legislators or their representatives, and consumer representatives, and other such interested persons; 522
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<u>13. To provide and receive information from, and to</u>	526
<u>cooperate with, law enforcement agencies;</u>	527
<u>14. To adopt and use an official seal; and</u>	528
<u>15. To perform such other functions as may be necessary or</u>	529
<u>appropriate to achieve the purposes of this Compact consistent</u>	530
<u>with the state regulation of nurse licensure and practice.</u>	531
<u>h. Financing of the Commission</u>	532
<u>1. The Commission shall pay, or provide for the payment</u>	533
<u>of, the reasonable expenses of its establishment, organization</u>	534
<u>and ongoing activities.</u>	535
<u>2. The Commission may also levy on and collect an annual</u>	536
<u>assessment from each party state to cover the cost of its</u>	537
<u>operations, activities and staff in its annual budget as</u>	538
<u>approved each year. The aggregate annual assessment amount, if</u>	539
<u>any, shall be allocated based upon a formula to be determined by</u>	540
<u>the Commission, which shall promulgate a rule that is binding</u>	541
<u>upon all party states.</u>	542
<u>3. The Commission shall not incur obligations of any kind</u>	543
<u>prior to securing the funds adequate to meet the same; nor shall</u>	544
<u>the Commission pledge the credit of any of the party states,</u>	545
<u>except by, and with the authority of, such party state.</u>	546
<u>4. The Commission shall keep accurate accounts of all</u>	547
<u>receipts and disbursements. The receipts and disbursements of</u>	548
<u>the Commission shall be subject to the audit and accounting</u>	549
<u>procedures established under its bylaws. However, all receipts</u>	550
<u>and disbursements of funds handled by the Commission shall be</u>	551
<u>audited yearly by a certified or licensed public accountant, and</u>	552
<u>the report of the audit shall be included in and become part of</u>	553
<u>the annual report of the Commission.</u>	554

<u>i. Qualified Immunity, Defense and Indemnification</u>	555
<u>1. The administrators, officers, executive director,</u>	556
<u>employees and representatives of the Commission shall be immune</u>	557
<u>from suit and liability, either personally or in their official</u>	558
<u>capacity, for any claim for damage to or loss of property or</u>	559
<u>personal injury or other civil liability caused by or arising</u>	560
<u>out of any actual or alleged act, error or omission that</u>	561
<u>occurred, or that the person against whom the claim is made had</u>	562
<u>a reasonable basis for believing occurred, within the scope of</u>	563
<u>Commission employment, duties or responsibilities; provided that</u>	564
<u>nothing in this paragraph shall be construed to protect any such</u>	565
<u>person from suit or liability for any damage, loss, injury or</u>	566
<u>liability caused by the intentional, willful or wanton</u>	567
<u>misconduct of that person.</u>	568
<u>2. The Commission shall defend any administrator, officer,</u>	569
<u>executive director, employee or representative of the Commission</u>	570
<u>in any civil action seeking to impose liability arising out of</u>	571
<u>any actual or alleged act, error or omission that occurred</u>	572
<u>within the scope of Commission employment, duties or</u>	573
<u>responsibilities, or that the person against whom the claim is</u>	574
<u>made had a reasonable basis for believing occurred within the</u>	575
<u>scope of Commission employment, duties or responsibilities;</u>	576
<u>provided that nothing herein shall be construed to prohibit that</u>	577
<u>person from retaining his or her own counsel; and provided</u>	578
<u>further that the actual or alleged act, error or omission did</u>	579
<u>not result from that person's intentional, willful or wanton</u>	580
<u>misconduct.</u>	581
<u>3. The Commission shall indemnify and hold harmless any</u>	582
<u>administrator, officer, executive director, employee or</u>	583
<u>representative of the Commission for the amount of any</u>	584

settlement or judgment obtained against that person arising out 585
of any actual or alleged act, error or omission that occurred 586
within the scope of Commission employment, duties or 587
responsibilities, or that such person had a reasonable basis for 588
believing occurred within the scope of Commission employment, 589
duties or responsibilities, provided that the actual or alleged 590
act, error or omission did not result from the intentional, 591
willful or wanton misconduct of that person. 592

ARTICLE VIII 593

Rulemaking 594

a. The Commission shall exercise its rulemaking powers 595
pursuant to the criteria set forth in this Article and the rules 596
adopted thereunder. Rules and amendments shall become binding as 597
of the date specified in each rule or amendment and shall have 598
the same force and effect as provisions of this Compact. 599

b. Rules or amendments to the rules shall be adopted at a 600
regular or special meeting of the Commission. 601

c. Prior to promulgation and adoption of a final rule or 602
rules by the Commission, and at least sixty (60) days in advance 603
of the meeting at which the rule will be considered and voted 604
upon, the Commission shall file a notice of proposed rulemaking: 605

1. On the website of the Commission; and 606

2. On the website of each licensing board or the 607
publication in which each state would otherwise publish proposed 608
rules. 609

d. The notice of proposed rulemaking shall include: 610

1. The proposed time, date and location of the meeting in 611
which the rule will be considered and voted upon; 612

2. The text of the proposed rule or amendment, and the 613
reason for the proposed rule; 614

3. A request for comments on the proposed rule from any 615
interested person; and 616

4. The manner in which interested persons may submit 617
notice to the Commission of their intention to attend the public 618
hearing and any written comments. 619

e. Prior to adoption of a proposed rule, the Commission 620
shall allow persons to submit written data, facts, opinions and 621
arguments, which shall be made available to the public. 622

f. The Commission shall grant an opportunity for a public 623
hearing before it adopts a rule or amendment. 624

g. The Commission shall publish the place, time and date 625
of the scheduled public hearing. 626

1. Hearings shall be conducted in a manner providing each 627
person who wishes to comment a fair and reasonable opportunity 628
to comment orally or in writing. All hearings will be recorded, 629
and a copy will be made available upon request. 630

2. Nothing in this section shall be construed as requiring 631
a separate hearing on each rule. Rules may be grouped for the 632
convenience of the Commission at hearings required by this 633
section. 634

h. If no one appears at the public hearing, the Commission 635
may proceed with promulgation of the proposed rule. 636

i. Following the scheduled hearing date, or by the close 637
of business on the scheduled hearing date if the hearing was not 638
held, the Commission shall consider all written and oral 639
comments received. 640

j. The Commission shall, by majority vote of all administrators, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule. 641
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k. Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice, opportunity for comment or hearing, provided that the usual rulemaking procedures provided in this Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to: 645
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1. Meet an imminent threat to public health, safety or welfare; 654
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2. Prevent a loss of Commission or party state funds; or 656

3. Meet a deadline for the promulgation of an administrative rule that is required by federal law or rule. 657
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1. The Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the Commission, prior to the end of the notice period. If no challenge is made, the revision will take effect without further 659
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action. If the revision is challenged, the revision may not take 670
effect without the approval of the Commission. 671

ARTICLE IX 672

Oversight, Dispute Resolution and Enforcement 673

a. Oversight 674

1. Each party state shall enforce this Compact and take 675
all actions necessary and appropriate to effectuate this 676
Compact's purposes and intent. 677

2. The Commission shall be entitled to receive service of 678
process in any proceeding that may affect the powers, 679
responsibilities or actions of the Commission, and shall have 680
standing to intervene in such a proceeding for all purposes. 681
Failure to provide service of process in such proceeding to the 682
Commission shall render a judgment or order void as to the 683
Commission, this Compact or promulgated rules. 684

b. Default, Technical Assistance and Termination 685

1. If the Commission determines that a party state has 686
defaulted in the performance of its obligations or 687
responsibilities under this Compact or the promulgated rules, 688
the Commission shall: 689

i. Provide written notice to the defaulting state and 690
other party states of the nature of the default, the proposed 691
means of curing the default or any other action to be taken by 692
the Commission; and 693

ii. Provide remedial training and specific technical 694
assistance regarding the default. 695

2. If a state in default fails to cure the default, the 696

defaulting state's membership in this Compact may be terminated 697
upon an affirmative vote of a majority of the administrators, 698
and all rights, privileges and benefits conferred by this 699
Compact may be terminated on the effective date of termination. 700
A cure of the default does not relieve the offending state of 701
obligations or liabilities incurred during the period of 702
default. 703

3. Termination of membership in this Compact shall be 704
imposed only after all other means of securing compliance have 705
been exhausted. Notice of intent to suspend or terminate shall 706
be given by the Commission to the governor of the defaulting 707
state and to the executive officer of the defaulting state's 708
licensing board and each of the party states. 709

4. A state whose membership in this Compact has been 710
terminated is responsible for all assessments, obligations and 711
liabilities incurred through the effective date of termination, 712
including obligations that extend beyond the effective date of 713
termination. 714

5. The Commission shall not bear any costs related to a 715
state that is found to be in default or whose membership in this 716
Compact has been terminated unless agreed upon in writing 717
between the Commission and the defaulting state. 718

6. The defaulting state may appeal the action of the 719
Commission by petitioning the U.S. District Court for the 720
District of Columbia or the federal district in which the 721
Commission has its principal offices. The prevailing party shall 722
be awarded all costs of such litigation, including reasonable 723
attorneys' fees. 724

c. Dispute Resolution 725

1. Upon request by a party state, the Commission shall attempt to resolve disputes related to the Compact that arise among party states and between party and non-party states. 726
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2. The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes, as appropriate. 729
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3. In the event the Commission cannot resolve disputes among party states arising under this Compact: 732
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i. The party states may submit the issues in dispute to an arbitration panel, which will be comprised of individuals appointed by the Compact administrator in each of the affected party states and an individual mutually agreed upon by the Compact administrators of all the party states involved in the dispute. 734
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ii. The decision of a majority of the arbitrators shall be final and binding. 740
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d. Enforcement 742

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this Compact. 743
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2. By majority vote, the Commission may initiate legal action in the U.S. District Court for the District of Columbia or the federal district in which the Commission has its principal offices against a party state that is in default to enforce compliance with the provisions of this Compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees. 746
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3. The remedies herein shall not be the exclusive remedies 755
of the Commission. The Commission may pursue any other remedies 756
available under federal or state law. 757

ARTICLE X 758

Effective Date, Withdrawal and Amendment 759

a. This Compact shall become effective and binding on the 760
earlier of the date of legislative enactment of this Compact 761
into law by no less than twenty-six (26) states or December 31, 762
2018. All party states to this Compact, that also were parties 763
to the prior Nurse Licensure Compact, superseded by this 764
Compact, ("Prior Compact"), shall be deemed to have withdrawn 765
from said Prior Compact within six (6) months after the 766
effective date of this Compact. 767

b. Each party state to this Compact shall continue to 768
recognize a nurse's multistate licensure privilege to practice 769
in that party state issued under the Prior Compact until such 770
party state has withdrawn from the Prior Compact. 771

c. Any party state may withdraw from this Compact by 772
enacting a statute repealing the same. A party state's 773
withdrawal shall not take effect until six (6) months after 774
enactment of the repealing statute. 775

d. A party state's withdrawal or termination shall not 776
affect the continuing requirement of the withdrawing or 777
terminated state's licensing board to report adverse actions and 778
significant investigations occurring prior to the effective date 779
of such withdrawal or termination. 780

e. Nothing contained in this Compact shall be construed to 781
invalidate or prevent any nurse licensure agreement or other 782
cooperative arrangement between a party state and a non-party 783

state that is made in accordance with the other provisions of 784
this Compact. 785

f. This Compact may be amended by the party states. No 786
amendment to this Compact shall become effective and binding 787
upon the party states unless and until it is enacted into the 788
laws of all party states. 789

g. Representatives of non-party states to this Compact 790
shall be invited to participate in the activities of the 791
Commission, on a nonvoting basis, prior to the adoption of this 792
Compact by all states. 793

ARTICLE XI 794

Construction and Severability 795

This Compact shall be liberally construed so as to 796
effectuate the purposes thereof. The provisions of this Compact 797
shall be severable, and if any phrase, clause, sentence or 798
provision of this Compact is declared to be contrary to the 799
constitution of any party state or of the United States, or if 800
the applicability thereof to any government, agency, person or 801
circumstance is held invalid, the validity of the remainder of 802
this Compact and the applicability thereof to any government, 803
agency, person or circumstance shall not be affected thereby. If 804
this Compact shall be held to be contrary to the constitution of 805
any party state, this Compact shall remain in full force and 806
effect as to the remaining party states and in full force and 807
effect as to the party state affected as to all severable 808
matters. 809

Sec. 4723.111. Not later than thirty days after the "Nurse 810
Licensure Compact" is entered into under section 4723.11 of the 811
Revised Code, the board of nursing, in accordance with article 812

VII of the compact, shall select an individual to serve as an 813
administrator to the interstate commission of nurse licensure 814
compact administrators created under the compact. The board 815
shall fill a vacancy in this position not later than thirty days 816
after the vacancy occurs. 817