

As Reported by the Senate Health Committee

134th General Assembly

Regular Session

2021-2022

S. B. No. 3

Senator Roegner

Cosponsor: Senator Huffman, S.

A BILL

To enact sections 4723.11, 4723.111, 4723.112, 1
4723.113, 4723.114, and 4723.115 of the Revised 2
Code to enter into the Nurse Licensure Compact. 3

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

Section 1. That sections 4723.11, 4723.111, 4723.112, 4
4723.113, 4723.114, and 4723.115 of the Revised Code be enacted 5
to read as follows: 6

Sec. 4723.11. The "Nurse Licensure Compact" is hereby 7
ratified, enacted into law, and entered into by the state of 8
Ohio as a party to the compact with any other state that has 9
legally joined in the compact as follows: 10

Nurse Licensure Compact 11

Approved by the May 4, 2015 Special Delegate Assembly 12

ARTICLE I 13

Findings and Declaration of Purpose 14

a. The party states find that: 15

1. The health and safety of the public are affected by the 16

<u>degree of compliance with and the effectiveness of enforcement</u>	17
<u>activities related to state nurse licensure laws;</u>	18
<u>2. Violations of nurse licensure and other laws regulating</u>	19
<u>the practice of nursing may result in injury or harm to the</u>	20
<u>public;</u>	21
<u>3. The expanded mobility of nurses and the use of advanced</u>	22
<u>communication technologies as part of our nation's health care</u>	23
<u>delivery system require greater coordination and cooperation</u>	24
<u>among states in the areas of nurse licensure and regulation;</u>	25
<u>4. New practice modalities and technology make compliance</u>	26
<u>with individual state nurse licensure laws difficult and</u>	27
<u>complex;</u>	28
<u>5. The current system of duplicative licensure for nurses</u>	29
<u>practicing in multiple states is cumbersome and redundant for</u>	30
<u>both nurses and states; and</u>	31
<u>6. Uniformity of nurse licensure requirements throughout</u>	32
<u>the states promotes public safety and public health benefits.</u>	33
<u>b. The general purposes of this Compact are to:</u>	34
<u>1. Facilitate the states' responsibility to protect the</u>	35
<u>public's health and safety;</u>	36
<u>2. Ensure and encourage the cooperation of party states in</u>	37
<u>the areas of nurse licensure and regulation;</u>	38
<u>3. Facilitate the exchange of information between party</u>	39
<u>states in the areas of nurse regulation, investigation and</u>	40
<u>adverse actions;</u>	41
<u>4. Promote compliance with the laws governing the practice</u>	42
<u>of nursing in each jurisdiction;</u>	43

5. Invest all party states with the authority to hold a nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses; 44
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6. Decrease redundancies in the consideration and issuance of nurse licenses; and 48
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7. Provide opportunities for interstate practice by nurses who meet uniform licensure requirements. 50
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ARTICLE II 52

Definitions 53

As used in this Compact: 54

a. "Adverse action" means any administrative, civil, equitable or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against a nurse, including actions against an individual's license or multistate licensure privilege such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other encumbrance on licensure affecting a nurse's authorization to practice, including issuance of a cease and desist action. 55
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b. "Alternative program" means a non-disciplinary monitoring program approved by a licensing board. 64
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c. "Coordinated licensure information system" means an integrated process for collecting, storing and sharing information on nurse licensure and enforcement activities related to nurse licensure laws that is administered by a nonprofit organization composed of and controlled by licensing boards. 66
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<u>d. "Current significant investigative information" means:</u>	72
<u>1. Investigative information that a licensing board, after</u>	73
<u>a preliminary inquiry that includes notification and an</u>	74
<u>opportunity for the nurse to respond, if required by state law,</u>	75
<u>has reason to believe is not groundless and, if proved true,</u>	76
<u>would indicate more than a minor infraction; or</u>	77
<u>2. Investigative information that indicates that the nurse</u>	78
<u>represents an immediate threat to public health and safety</u>	79
<u>regardless of whether the nurse has been notified and had an</u>	80
<u>opportunity to respond.</u>	81
<u>e. "Encumbrance" means a revocation or suspension of, or</u>	82
<u>any limitation on, the full and unrestricted practice of nursing</u>	83
<u>imposed by a licensing board.</u>	84
<u>f. "Home state" means the party state which is the nurse's</u>	85
<u>primary state of residence.</u>	86
<u>g. "Licensing board" means a party state's regulatory body</u>	87
<u>responsible for issuing nurse licenses.</u>	88
<u>h. "Multistate license" means a license to practice as a</u>	89
<u>registered or a licensed practical/vocational nurse (LPN/VN)</u>	90
<u>issued by a home state licensing board that authorizes the</u>	91
<u>licensed nurse to practice in all party states under a</u>	92
<u>multistate licensure privilege.</u>	93
<u>i. "Multistate licensure privilege" means a legal</u>	94
<u>authorization associated with a multistate license permitting</u>	95
<u>the practice of nursing as either a registered nurse (RN) or</u>	96
<u>LPN/VN in a remote state.</u>	97
<u>j. "Nurse" means RN or LPN/VN, as those terms are defined</u>	98
<u>by each party state's practice laws.</u>	99

<u>k. "Party state" means any state that has adopted this Compact.</u>	100 101
<u>l. "Remote state" means a party state, other than the home state.</u>	102 103
<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>	104 105 106 107
<u>n. "State" means a state, territory or possession of the United States and the District of Columbia.</u>	108 109
<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>	110 111 112 113 114 115
<u>ARTICLE III</u>	116
<u>General Provisions and Jurisdiction</u>	117
<u>a. A multistate license to practice registered or licensed practical/vocational nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a nurse to practice as a registered nurse (RN) or as a licensed practical/vocational nurse (LPN/VN), under a multistate licensure privilege, in each party state.</u>	118 119 120 121 122 123
<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</u>	124 125 126 127

information by applicants for the purpose of obtaining an 128
applicant's criminal history record information from the Federal 129
Bureau of Investigation and the agency responsible for retaining 130
that state's criminal records. 131

c. Each party state shall require the following for an 132
applicant to obtain or retain a multistate license in the home 133
state: 134

1. Meets the home state's qualifications for licensure or 135
renewal of licensure, as well as, all other applicable state 136
laws; 137

2. i. Has graduated or is eligible to graduate from a 138
licensing board-approved RN or LPN/VN prelicensure education 139
program; or 140

ii. Has graduated from a foreign RN or LPN/VN prelicensure 141
education program that (a) has been approved by the authorized 142
accrediting body in the applicable country and (b) has been 143
verified by an independent credentials review agency to be 144
comparable to a licensing board-approved prelicensure education 145
program; 146

3. Has, if a graduate of a foreign prelicensure education 147
program not taught in English or if English is not the 148
individual's native language, successfully passed an English 149
proficiency examination that includes the components of reading, 150
speaking, writing and listening; 151

4. Has successfully passed an NCLEX-RN® or NCLEX-PN® 152
Examination or recognized predecessor, as applicable; 153

5. Is eligible for or holds an active, unencumbered 154
license; 155

6. Has submitted, in connection with an application for initial licensure or licensure by endorsement, fingerprints or other biometric data for the purpose of obtaining criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records; 156
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7. Has not been convicted or found guilty, or has entered into an agreed disposition, of a felony offense under applicable state or federal criminal law; 162
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8. Has not been convicted or found guilty, or has entered into an agreed disposition, of a misdemeanor offense related to the practice of nursing as determined on a case-by-case basis; 165
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9. Is not currently enrolled in an alternative program; 168

10. Is subject to self-disclosure requirements regarding current participation in an alternative program; and 169
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11. Has a valid United States Social Security number. 171

d. All party states shall be authorized, in accordance with existing state due process law, to take adverse action against a nurse's multistate licensure privilege such as revocation, suspension, probation or any other action that affects a nurse's authorization to practice under a multistate licensure privilege, including cease and desist actions. If a party state takes such action, it shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any such actions by remote states. 172
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e. A nurse practicing in a party state must comply with the state practice laws of the state in which the client is 183
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located at the time service is provided. The practice of nursing 185
is not limited to patient care, but shall include all nursing 186
practice as defined by the state practice laws of the party 187
state in which the client is located. The practice of nursing in 188
a party state under a multistate licensure privilege will 189
subject a nurse to the jurisdiction of the licensing board, the 190
courts and the laws of the party state in which the client is 191
located at the time service is provided. 192

f. Individuals not residing in a party state shall 193
continue to be able to apply for a party state's single-state 194
license as provided under the laws of each party state. However, 195
the single-state license granted to these individuals will not 196
be recognized as granting the privilege to practice nursing in 197
any other party state. Nothing in this Compact shall affect the 198
requirements established by a party state for the issuance of a 199
single-state license. 200

g. Any nurse holding a home state multistate license, on 201
the effective date of this Compact, may retain and renew the 202
multistate license issued by the nurse's then-current home 203
state, provided that: 204

1. A nurse, who changes primary state of residence after 205
this Compact's effective date, must meet all applicable Article 206
III.c. requirements to obtain a multistate license from a new 207
home state. 208

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

Commission of Nurse Licensure Compact Administrators 215
("Commission"). 216

ARTICLE IV 217

Applications for Licensure in a Party State 218

a. Upon application for a multistate license, the 219
licensing board in the issuing party state shall ascertain, 220
through the coordinated licensure information system, whether 221
the applicant has ever held, or is the holder of, a license 222
issued by any other state, whether there are any encumbrances on 223
any license or multistate licensure privilege held by the 224
applicant, whether any adverse action has been taken against any 225
license or multistate licensure privilege held by the applicant 226
and whether the applicant is currently participating in an 227
alternative program. 228

b. A nurse may hold a multistate license, issued by the 229
home state, in only one party state at a time. 230

c. If a nurse changes primary state of residence by moving 231
between two party states, the nurse must apply for licensure in 232
the new home state, and the multistate license issued by the 233
prior home state will be deactivated in accordance with 234
applicable rules adopted by the Commission. 235

1. The nurse may apply for licensure in advance of a 236
change in primary state of residence. 237

2. A multistate license shall not be issued by the new 238
home state until the nurse provides satisfactory evidence of a 239
change in primary state of residence to the new home state and 240
satisfies all applicable requirements to obtain a multistate 241
license from the new home state. 242

d. If a nurse changes primary state of residence by moving 243
from a party state to a non-party state, the multistate license 244
issued by the prior home state will convert to a single-state 245
license, valid only in the former home state. 246

ARTICLE V 247

Additional Authorities Invested in Party State Licensing Boards 248

a. In addition to the other powers conferred by state law, 249
a licensing board shall have the authority to: 250

1. Take adverse action against a nurse's multistate 251
licensure privilege to practice within that party state. 252

i. Only the home state shall have the power to take 253
adverse action against a nurse's license issued by the home 254
state. 255

ii. For purposes of taking adverse action, the home state 256
licensing board shall give the same priority and effect to 257
reported conduct received from a remote state as it would if 258
such conduct had occurred within the home state. In so doing, 259
the home state shall apply its own state laws to determine 260
appropriate action. 261

2. Issue cease and desist orders or impose an encumbrance 262
on a nurse's authority to practice within that party state. 263

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

system shall promptly notify the new home state of any such 271
actions. 272

4. Issue subpoenas for both hearings and investigations 273
that require the attendance and testimony of witnesses, as well 274
as, the production of evidence. Subpoenas issued by a licensing 275
board in a party state for the attendance and testimony of 276
witnesses or the production of evidence from another party state 277
shall be enforced in the latter state by any court of competent 278
jurisdiction, according to the practice and procedure of that 279
court applicable to subpoenas issued in proceedings pending 280
before it. The issuing authority shall pay any witness fees, 281
travel expenses, mileage and other fees required by the service 282
statutes of the state in which the witnesses or evidence are 283
located. 284

5. Obtain and submit, for each nurse licensure applicant, 285
fingerprint or other biometric-based information to the Federal 286
Bureau of Investigation for criminal background checks, receive 287
the results of the Federal Bureau of Investigation record search 288
on criminal background checks and use the results in making 289
licensure decisions. 290

6. If otherwise permitted by state law, recover from the 291
affected nurse the costs of investigations and disposition of 292
cases resulting from any adverse action taken against that 293
nurse. 294

7. Take adverse action based on the factual findings of 295
the remote state, provided that the licensing board follows its 296
own procedures for taking such adverse action. 297

b. If adverse action is taken by the home state against a 298
nurse's multistate license, the nurse's multistate licensure 299

privilege to practice in all other party states shall be 300
deactivated until all encumbrances have been removed from the 301
multistate license. All home state disciplinary orders that 302
impose adverse action against a nurse's multistate license shall 303
include a statement that the nurse's multistate licensure 304
privilege is deactivated in all party states during the pendency 305
of the order. 306

c. Nothing in this Compact shall override a party state's 307
decision that participation in an alternative program may be 308
used in lieu of adverse action. The home state licensing board 309
shall deactivate the multistate licensure privilege under the 310
multistate license of any nurse for the duration of the nurse's 311
participation in an alternative program. 312

ARTICLE VI 313

Coordinated Licensure Information System and Exchange of 314
Information 315

a. All party states shall participate in a coordinated 316
licensure information system of all licensed registered nurses 317
(RNs) and licensed practical/vocational nurses (LPNs/VNs). This 318
system will include information on the licensure and 319
disciplinary history of each nurse, as submitted by party 320
states, to assist in the coordination of nurse licensure and 321
enforcement efforts. 322

b. The Commission, in consultation with the administrator 323
of the coordinated licensure information system, shall formulate 324
necessary and proper procedures for the identification, 325
collection and exchange of information under this Compact. 326

c. All licensing boards shall promptly report to the 327
coordinated licensure information system any adverse action, any 328

current significant investigative information, denials of 329
applications (with the reasons for such denials) and nurse 330
participation in alternative programs known to the licensing 331
board regardless of whether such participation is deemed 332
nonpublic or confidential under state law. 333

d. Current significant investigative information and 334
participation in nonpublic or confidential alternative programs 335
shall be transmitted through the coordinated licensure 336
information system only to party state licensing boards. 337

e. Notwithstanding any other provision of law, all party 338
state licensing boards contributing information to the 339
coordinated licensure information system may designate 340
information that may not be shared with non-party states or 341
disclosed to other entities or individuals without the express 342
permission of the contributing state. 343

f. Any personally identifiable information obtained from 344
the coordinated licensure information system by a party state 345
licensing board shall not be shared with non-party states or 346
disclosed to other entities or individuals except to the extent 347
permitted by the laws of the party state contributing the 348
information. 349

g. Any information contributed to the coordinated 350
licensure information system that is subsequently required to be 351
expunged by the laws of the party state contributing that 352
information shall also be expunged from the coordinated 353
licensure information system. 354

h. The Compact administrator of each party state shall 355
furnish a uniform data set to the Compact administrator of each 356
other party state, which shall include, at a minimum: 357

<u>1. Identifying information;</u>	358
<u>2. Licensure data;</u>	359
<u>3. Information related to alternative program participation; and</u>	360 361
<u>4. Other information that may facilitate the administration of this Compact, as determined by Commission rules.</u>	362 363 364
<u>i. The Compact administrator of a party state shall provide all investigative documents and information requested by another party state.</u>	365 366 367
<u>ARTICLE VII</u>	368
<u>Establishment of the Interstate Commission of Nurse Licensure Compact Administrators</u>	369 370
<u>a. The party states hereby create and establish a joint public entity known as the Interstate Commission of Nurse Licensure Compact Administrators.</u>	371 372 373
<u>1. The Commission is an instrumentality of the party states.</u>	374 375
<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>	376 377 378 379 380 381
<u>3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.</u>	382 383
<u>b. Membership, Voting and Meetings</u>	384

1. Each party state shall have and be limited to one administrator. The head of the state licensing board or designee shall be the administrator of this Compact for each party state. Any administrator may be removed or suspended from office as provided by the law of the state from which the Administrator is appointed. Any vacancy occurring in the Commission shall be filled in accordance with the laws of the party state in which the vacancy exists. 385
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2. Each administrator shall be entitled to one (1) vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission. An administrator shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for an administrator's participation in meetings by telephone or other means of communication. 393
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3. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws or rules of the commission. 400
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4. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Article VIII. 403
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5. The Commission may convene in a closed, nonpublic meeting if the Commission must discuss: 406
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- i. Noncompliance of a party state with its obligations under this Compact; 408
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- ii. The employment, compensation, discipline or other personnel matters, practices or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures; 410
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<u>iii. Current, threatened or reasonably anticipated</u>	414
<u>litigation;</u>	415
<u>iv. Negotiation of contracts for the purchase or sale of</u>	416
<u>goods, services or real estate;</u>	417
<u>v. Accusing any person of a crime or formally censuring</u>	418
<u>any person;</u>	419
<u>vi. Disclosure of trade secrets or commercial or financial</u>	420
<u>information that is privileged or confidential;</u>	421
<u>vii. Disclosure of information of a personal nature where</u>	422
<u>disclosure would constitute a clearly unwarranted invasion of</u>	423
<u>personal privacy;</u>	424
<u>viii. Disclosure of investigatory records compiled for law</u>	425
<u>enforcement purposes;</u>	426
<u>ix. Disclosure of information related to any reports</u>	427
<u>prepared by or on behalf of the Commission for the purpose of</u>	428
<u>investigation of compliance with this Compact; or</u>	429
<u>x. Matters specifically exempted from disclosure by</u>	430
<u>federal or state statute.</u>	431
<u>6. If a meeting, or portion of a meeting, is closed</u>	432
<u>pursuant to this provision, the Commission's legal counsel or</u>	433
<u>designee shall certify that the meeting may be closed and shall</u>	434
<u>reference each relevant exempting provision. The Commission</u>	435
<u>shall keep minutes that fully and clearly describe all matters</u>	436
<u>discussed in a meeting and shall provide a full and accurate</u>	437
<u>summary of actions taken, and the reasons therefor, including a</u>	438
<u>description of the views expressed. All documents considered in</u>	439
<u>connection with an action shall be identified in such minutes.</u>	440
<u>All minutes and documents of a closed meeting shall remain under</u>	441

seal, subject to release by a majority vote of the Commission or 442
order of a court of competent jurisdiction. 443

c. The Commission shall, by a majority vote of the 444
administrators, prescribe bylaws or rules to govern its conduct 445
as may be necessary or appropriate to carry out the purposes and 446
exercise the powers of this Compact, including but not limited 447
to: 448

1. Establishing the fiscal year of the Commission; 449

2. Providing reasonable standards and procedures: 450

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

and 452

ii. Governing any general or specific delegation of any 453
authority or function of the Commission; 454

3. Providing reasonable procedures for calling and 455
conducting meetings of the Commission, ensuring reasonable 456
advance notice of all meetings and providing an opportunity for 457
attendance of such meetings by interested parties, with 458
enumerated exceptions designed to protect the public's interest, 459
the privacy of individuals, and proprietary information, 460
including trade secrets. The Commission may meet in closed 461
session only after a majority of the administrators vote to 462
close a meeting in whole or in part. As soon as practicable, the 463
Commission must make public a copy of the vote to close the 464
meeting revealing the vote of each administrator, with no proxy 465
votes allowed; 466

4. Establishing the titles, duties and authority and 467
reasonable procedures for the election of the officers of the 468
Commission; 469

5. Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Commission. Notwithstanding any civil service or other similar laws of any party state, the bylaws shall exclusively govern the personnel policies and programs of the Commission; and 470
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6. Providing a mechanism for winding up the operations of the Commission and the equitable disposition of any surplus funds that may exist after the termination of this Compact after the payment or reserving of all of its debts and obligations; 475
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d. The Commission shall publish its bylaws and rules, and any amendments thereto, in a convenient form on the website of the Commission. 479
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e. The Commission shall maintain its financial records in accordance with the bylaws. 482
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f. The Commission shall meet and take such actions as are consistent with the provisions of this Compact and the bylaws. 484
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g. The Commission shall have the following powers: 486

1. To promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact. The rules shall have the force and effect of law and shall be binding in all party states; 487
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2. To bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any licensing board to sue or be sued under applicable law shall not be affected; 491
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3. To purchase and maintain insurance and bonds; 495

4. To borrow, accept or contract for services of personnel, including, but not limited to, employees of a party 496
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<u>state or nonprofit organizations;</u>	498
<u>5. To cooperate with other organizations that administer</u>	499
<u>state compacts related to the regulation of nursing, including</u>	500
<u>but not limited to sharing administrative or staff expenses,</u>	501
<u>office space or other resources;</u>	502
<u>6. To hire employees, elect or appoint officers, fix</u>	503
<u>compensation, define duties, grant such individuals appropriate</u>	504
<u>authority to carry out the purposes of this Compact, and to</u>	505
<u>establish the Commission's personnel policies and programs</u>	506
<u>relating to conflicts of interest, qualifications of personnel</u>	507
<u>and other related personnel matters;</u>	508
<u>7. To accept any and all appropriate donations, grants and</u>	509
<u>gifts of money, equipment, supplies, materials and services, and</u>	510
<u>to receive, utilize and dispose of the same; provided that at</u>	511
<u>all times the Commission shall avoid any appearance of</u>	512
<u>impropriety or conflict of interest;</u>	513
<u>8. To lease, purchase, accept appropriate gifts or</u>	514
<u>donations of, or otherwise to own, hold, improve or use, any</u>	515
<u>property, whether real, personal or mixed; provided that at all</u>	516
<u>times the Commission shall avoid any appearance of impropriety;</u>	517
<u>9. To sell, convey, mortgage, pledge, lease, exchange,</u>	518
<u>abandon or otherwise dispose of any property, whether real,</u>	519
<u>personal or mixed;</u>	520
<u>10. To establish a budget and make expenditures;</u>	521
<u>11. To borrow money;</u>	522
<u>12. To appoint committees, including advisory committees</u>	523
<u>comprised of administrators, state nursing regulators, state</u>	524
<u>legislators or their representatives, and consumer</u>	525

<u>representatives, and other such interested persons;</u>	526
<u>13. To provide and receive information from, and to</u>	527
<u>cooperate with, law enforcement agencies;</u>	528
<u>14. To adopt and use an official seal; and</u>	529
<u>15. To perform such other functions as may be necessary or</u>	530
<u>appropriate to achieve the purposes of this Compact consistent</u>	531
<u>with the state regulation of nurse licensure and practice.</u>	532
<u>h. Financing of the Commission</u>	533
<u>1. The Commission shall pay, or provide for the payment</u>	534
<u>of, the reasonable expenses of its establishment, organization</u>	535
<u>and ongoing activities.</u>	536
<u>2. The Commission may also levy on and collect an annual</u>	537
<u>assessment from each party state to cover the cost of its</u>	538
<u>operations, activities and staff in its annual budget as</u>	539
<u>approved each year. The aggregate annual assessment amount, if</u>	540
<u>any, shall be allocated based upon a formula to be determined by</u>	541
<u>the Commission, which shall promulgate a rule that is binding</u>	542
<u>upon all party states.</u>	543
<u>3. The Commission shall not incur obligations of any kind</u>	544
<u>prior to securing the funds adequate to meet the same; nor shall</u>	545
<u>the Commission pledge the credit of any of the party states,</u>	546
<u>except by, and with the authority of, such party state.</u>	547
<u>4. The Commission shall keep accurate accounts of all</u>	548
<u>receipts and disbursements. The receipts and disbursements of</u>	549
<u>the Commission shall be subject to the audit and accounting</u>	550
<u>procedures established under its bylaws. However, all receipts</u>	551
<u>and disbursements of funds handled by the Commission shall be</u>	552
<u>audited yearly by a certified or licensed public accountant, and</u>	553

the report of the audit shall be included in and become part of 554
the annual report of the Commission. 555

i. Qualified Immunity, Defense and Indemnification 556

1. The administrators, officers, executive director, 557
employees and representatives of the Commission shall be immune 558
from suit and liability, either personally or in their official 559
capacity, for any claim for damage to or loss of property or 560
personal injury or other civil liability caused by or arising 561
out of any actual or alleged act, error or omission that 562
occurred, or that the person against whom the claim is made had 563
a reasonable basis for believing occurred, within the scope of 564
Commission employment, duties or responsibilities; provided that 565
nothing in this paragraph shall be construed to protect any such 566
person from suit or liability for any damage, loss, injury or 567
liability caused by the intentional, willful or wanton 568
misconduct of that person. 569

2. The Commission shall defend any administrator, officer, 570
executive director, employee or representative of the Commission 571
in any civil action seeking to impose liability arising out of 572
any actual or alleged act, error or omission that occurred 573
within the scope of Commission employment, duties or 574
responsibilities, or that the person against whom the claim is 575
made had a reasonable basis for believing occurred within the 576
scope of Commission employment, duties or responsibilities; 577
provided that nothing herein shall be construed to prohibit that 578
person from retaining his or her own counsel; and provided 579
further that the actual or alleged act, error or omission did 580
not result from that person's intentional, willful or wanton 581
misconduct. 582

3. The Commission shall indemnify and hold harmless any 583

administrator, officer, executive director, employee or 584
representative of the Commission for the amount of any 585
settlement or judgment obtained against that person arising out 586
of any actual or alleged act, error or omission that occurred 587
within the scope of Commission employment, duties or 588
responsibilities, or that such person had a reasonable basis for 589
believing occurred within the scope of Commission employment, 590
duties or responsibilities, provided that the actual or alleged 591
act, error or omission did not result from the intentional, 592
willful or wanton misconduct of that person. 593

ARTICLE VIII 594

Rulemaking 595

a. The Commission shall exercise its rulemaking powers 596
pursuant to the criteria set forth in this Article and the rules 597
adopted thereunder. Rules and amendments shall become binding as 598
of the date specified in each rule or amendment and shall have 599
the same force and effect as provisions of this Compact. 600

b. Rules or amendments to the rules shall be adopted at a 601
regular or special meeting of the Commission. 602

c. Prior to promulgation and adoption of a final rule or 603
rules by the Commission, and at least sixty (60) days in advance 604
of the meeting at which the rule will be considered and voted 605
upon, the Commission shall file a notice of proposed rulemaking: 606

1. On the website of the Commission; and 607

2. On the website of each licensing board or the 608
publication in which each state would otherwise publish proposed 609
rules. 610

d. The notice of proposed rulemaking shall include: 611

1. The proposed time, date and location of the meeting in which the rule will be considered and voted upon; 612
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2. The text of the proposed rule or amendment, and the reason for the proposed rule; 614
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3. A request for comments on the proposed rule from any interested person; and 616
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4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments. 618
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- e. Prior to adoption of a proposed rule, the Commission shall allow persons to submit written data, facts, opinions and arguments, which shall be made available to the public. 621
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- f. The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment. 624
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- g. The Commission shall publish the place, time and date of the scheduled public hearing. 626
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1. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing. All hearings will be recorded, and a copy will be made available upon request. 628
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2. Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the Commission at hearings required by this section. 632
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- h. If no one appears at the public hearing, the Commission may proceed with promulgation of the proposed rule. 636
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- i. Following the scheduled hearing date, or by the close 638

of business on the scheduled hearing date if the hearing was not 639
held, the Commission shall consider all written and oral 640
comments received. 641

j. The Commission shall, by majority vote of all 642
administrators, take final action on the proposed rule and shall 643
determine the effective date of the rule, if any, based on the 644
rulemaking record and the full text of the rule. 645

k. Upon determination that an emergency exists, the 646
Commission may consider and adopt an emergency rule without 647
prior notice, opportunity for comment or hearing, provided that 648
the usual rulemaking procedures provided in this Compact and in 649
this section shall be retroactively applied to the rule as soon 650
as reasonably possible, in no event later than ninety (90) days 651
after the effective date of the rule. For the purposes of this 652
provision, an emergency rule is one that must be adopted 653
immediately in order to: 654

1. Meet an imminent threat to public health, safety or 655
welfare; 656

2. Prevent a loss of Commission or party state funds; or 657

3. Meet a deadline for the promulgation of an 658
administrative rule that is required by federal law or rule. 659

1. The Commission may direct revisions to a previously 660
adopted rule or amendment for purposes of correcting 661
typographical errors, errors in format, errors in consistency or 662
grammatical errors. Public notice of any revisions shall be 663
posted on the website of the Commission. The revision shall be 664
subject to challenge by any person for a period of thirty (30) 665
days after posting. The revision may be challenged only on 666
grounds that the revision results in a material change to a 667

rule. A challenge shall be made in writing, and delivered to the 668
Commission, prior to the end of the notice period. If no 669
challenge is made, the revision will take effect without further 670
action. If the revision is challenged, the revision may not take 671
effect without the approval of the Commission. 672

ARTICLE IX 673

Oversight, Dispute Resolution and Enforcement 674

a. Oversight 675

1. Each party state shall enforce this Compact and take 676
all actions necessary and appropriate to effectuate this 677
Compact's purposes and intent. 678

2. The Commission shall be entitled to receive service of 679
process in any proceeding that may affect the powers, 680
responsibilities or actions of the Commission, and shall have 681
standing to intervene in such a proceeding for all purposes. 682
Failure to provide service of process in such proceeding to the 683
Commission shall render a judgment or order void as to the 684
Commission, this Compact or promulgated rules. 685

b. Default, Technical Assistance and Termination 686

1. If the Commission determines that a party state has 687
defaulted in the performance of its obligations or 688
responsibilities under this Compact or the promulgated rules, 689
the Commission shall: 690

i. Provide written notice to the defaulting state and 691
other party states of the nature of the default, the proposed 692
means of curing the default or any other action to be taken by 693
the Commission; and 694

ii. Provide remedial training and specific technical 695

assistance regarding the default. 696

2. If a state in default fails to cure the default, the 697
defaulting state's membership in this Compact may be terminated 698
upon an affirmative vote of a majority of the administrators, 699
and all rights, privileges and benefits conferred by this 700
Compact may be terminated on the effective date of termination. 701
A cure of the default does not relieve the offending state of 702
obligations or liabilities incurred during the period of 703
default. 704

3. Termination of membership in this Compact shall be 705
imposed only after all other means of securing compliance have 706
been exhausted. Notice of intent to suspend or terminate shall 707
be given by the Commission to the governor of the defaulting 708
state and to the executive officer of the defaulting state's 709
licensing board and each of the party states. 710

4. A state whose membership in this Compact has been 711
terminated is responsible for all assessments, obligations and 712
liabilities incurred through the effective date of termination, 713
including obligations that extend beyond the effective date of 714
termination. 715

5. The Commission shall not bear any costs related to a 716
state that is found to be in default or whose membership in this 717
Compact has been terminated unless agreed upon in writing 718
between the Commission and the defaulting state. 719

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

<u>attorneys' fees.</u>	725
<u>c. Dispute Resolution</u>	726
<u>1. Upon request by a party state, the Commission shall</u>	727
<u>attempt to resolve disputes related to the Compact that arise</u>	728
<u>among party states and between party and non-party states.</u>	729
<u>2. The Commission shall promulgate a rule providing for</u>	730
<u>both mediation and binding dispute resolution for disputes, as</u>	731
<u>appropriate.</u>	732
<u>3. In the event the Commission cannot resolve disputes</u>	733
<u>among party states arising under this Compact:</u>	734
<u>i. The party states may submit the issues in dispute to an</u>	735
<u>arbitration panel, which will be comprised of individuals</u>	736
<u>appointed by the Compact administrator in each of the affected</u>	737
<u>party states and an individual mutually agreed upon by the</u>	738
<u>Compact administrators of all the party states involved in the</u>	739
<u>dispute.</u>	740
<u>ii. The decision of a majority of the arbitrators shall be</u>	741
<u>final and binding.</u>	742
<u>d. Enforcement</u>	743
<u>1. The Commission, in the reasonable exercise of its</u>	744
<u>discretion, shall enforce the provisions and rules of this</u>	745
<u>Compact.</u>	746
<u>2. By majority vote, the Commission may initiate legal</u>	747
<u>action in the U.S. District Court for the District of Columbia</u>	748
<u>or the federal district in which the Commission has its</u>	749
<u>principal offices against a party state that is in default to</u>	750
<u>enforce compliance with the provisions of this Compact and its</u>	751
<u>promulgated rules and bylaws. The relief sought may include both</u>	752

injunctive relief and damages. In the event judicial enforcement 753
is necessary, the prevailing party shall be awarded all costs of 754
such litigation, including reasonable attorneys' fees. 755

3. The remedies herein shall not be the exclusive remedies 756
of the Commission. The Commission may pursue any other remedies 757
available under federal or state law. 758

ARTICLE X 759

Effective Date, Withdrawal and Amendment 760

a. This Compact shall become effective and binding on the 761
earlier of the date of legislative enactment of this Compact 762
into law by no less than twenty-six (26) states or December 31, 763
2018. All party states to this Compact, that also were parties 764
to the prior Nurse Licensure Compact, superseded by this 765
Compact, ("Prior Compact"), shall be deemed to have withdrawn 766
from said Prior Compact within six (6) months after the 767
effective date of this Compact. 768

b. Each party state to this Compact shall continue to 769
recognize a nurse's multistate licensure privilege to practice 770
in that party state issued under the Prior Compact until such 771
party state has withdrawn from the Prior Compact. 772

c. Any party state may withdraw from this Compact by 773
enacting a statute repealing the same. A party state's 774
withdrawal shall not take effect until six (6) months after 775
enactment of the repealing statute. 776

d. A party state's withdrawal or termination shall not 777
affect the continuing requirement of the withdrawing or 778
terminated state's licensing board to report adverse actions and 779
significant investigations occurring prior to the effective date 780
of such withdrawal or termination. 781

e. Nothing contained in this Compact shall be construed to 782
invalidate or prevent any nurse licensure agreement or other 783
cooperative arrangement between a party state and a non-party 784
state that is made in accordance with the other provisions of 785
this Compact. 786

f. This Compact may be amended by the party states. No 787
amendment to this Compact shall become effective and binding 788
upon the party states unless and until it is enacted into the 789
laws of all party states. 790

g. Representatives of non-party states to this Compact 791
shall be invited to participate in the activities of the 792
Commission, on a nonvoting basis, prior to the adoption of this 793
Compact by all states. 794

ARTICLE XI 795

Construction and Severability 796

This Compact shall be liberally construed so as to 797
effectuate the purposes thereof. The provisions of this Compact 798
shall be severable, and if any phrase, clause, sentence or 799
provision of this Compact is declared to be contrary to the 800
constitution of any party state or of the United States, or if 801
the applicability thereof to any government, agency, person or 802
circumstance is held invalid, the validity of the remainder of 803
this Compact and the applicability thereof to any government, 804
agency, person or circumstance shall not be affected thereby. If 805
this Compact shall be held to be contrary to the constitution of 806
any party state, this Compact shall remain in full force and 807
effect as to the remaining party states and in full force and 808
effect as to the party state affected as to all severable 809
matters. 810

Sec. 4723.111. Not later than thirty days after the "Nurse Licensure Compact" is entered into under section 4723.11 of the Revised Code, the board of nursing, in accordance with article VII of the compact, shall select an individual to serve as an administrator to the interstate commission of nurse licensure compact administrators created under the compact. The board shall fill a vacancy in this position not later than thirty days after the vacancy occurs. 811
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Sec. 4723.112. A multistate license to practice registered or licensed practical nursing issued pursuant to section 4723.11 of the Revised Code is an option for licensure in addition to a traditional license to practice as a registered nurse or as a licensed practical nurse issued pursuant to section 4723.09 of the Revised Code. The board of nursing may charge a fee in excess of the traditional license fee for issuance of a multistate license. 819
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Sec. 4723.113. The Interstate Commission of Nurse Licensure Compact Administrators, in providing an opportunity to comment on a proposed rule as set forth in article VIII.g. of the "Nurse Licensure Compact" entered into under section 4723.11 of the Revised Code, shall provide the opportunity to comment orally via teleconference. 827
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Sec. 4723.114. (A) A person or governmental entity that employs, or contracts directly or through another person or governmental entity for the provision of services by, a nurse holding a multistate license to practice registered or licensed practical nursing issued pursuant to section 4723.11 of the Revised Code shall do both of the following if the nurse's home state, as defined in that section, is not Ohio: 833
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(1) Report to the board of nursing the name of each nurse 840

holding a multistate license, as well as any other information 841
pertaining to the nurse as required by rules of the board; 842

(2) Provide each nurse holding a multistate license a copy 843
of board-developed information concerning laws and rules 844
specific to the practice of nursing in Ohio. 845

(B) The board shall develop information concerning laws 846
and rules specific to the practice of nursing in Ohio and make 847
that information available on its internet web site. 848

(C) The board may adopt rules in accordance with Chapter 849
119. of the Revised Code to implement this section. 850

Sec. 4723.115. Nothing in sections 4723.11 to 4723.114 of 851
the Revised Code shall be construed to limit, alter, or modify 852
any of the terms, conditions, or provisions of a collective 853
bargaining agreement entered into by a hospital. 854

Section 2. Section 1 of this act takes effect one year 855
after the effective date of this section. 856