

SB2214



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB2214

Introduced 1/13/2016, by Sen. Pamela J. Althoff

SYNOPSIS AS INTRODUCED:

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

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

LRB099 15050 MLM 39259 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

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

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

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

7 ARTICLE 85. NURSE LICENSURE COMPACT

8 (225 ILCS 65/85-5 new)

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

11 ARTICLE I

12 Findings and Declaration of Purpose

13 a. The party states find that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 ARTICLE II

9 Definitions

10 As used in this Compact:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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ARTICLE III

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General Provisions and Jurisdiction

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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.

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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 applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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ARTICLE IV

Applications for Licensure in a Party State

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

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

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

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

2. A multistate license shall not be issued by the new home state until the nurse provides satisfactory evidence of a change in primary state of residence to the new home

1 state and satisfies all applicable requirements to obtain a
2 multistate license from the new home state.

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

7 ARTICLE V

8 Additional Authorities Invested in Party State Licensing

9 Boards

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

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

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

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

23 2. Issue cease and desist orders or impose an
24 encumbrance on a nurse's authority to practice within that

1 party state.

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

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

24 5. Obtain and submit, for each nurse licensure
25 applicant, fingerprint or other biometric-based
26 information to the Federal Bureau of Investigation for

1 criminal background checks, receive the results of the
2 Federal Bureau of Investigation record search on criminal
3 background checks and use the results in making licensure
4 decisions.

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

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

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

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

1 ARTICLE VI

2 Coordinated Licensure Information System and Exchange of
3 Information

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

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

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

23 d. Current significant investigative information and
24 participation in nonpublic or confidential alternative

1 programs shall be transmitted through the coordinated
2 licensure information system only to party state licensing
3 boards.

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

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

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

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

24 1. Identifying information;

25 2. Licensure data;

26 3. Information related to alternative program

1 participation; and

2 4. Other information that may facilitate the
3 administration of this Compact, as determined by
4 Commission rules.

5 i. The Compact administrator of a party state shall provide
6 all investigative documents and information requested by
7 another party state.

8 ARTICLE VII

9 Establishment of the Interstate Commission of Nurse Licensure
10 Compact Administrators

11 a. The party states hereby create and establish a joint
12 public entity known as the Interstate Commission of Nurse
13 Licensure Compact Administrators.

14 1. The Commission is an instrumentality of the party
15 states.

16 2. Venue is proper, and judicial proceedings by or
17 against the Commission shall be brought solely and
18 exclusively, in a court of competent jurisdiction where the
19 principal office of the Commission is located. The
20 Commission may waive venue and jurisdictional defenses to
21 the extent it adopts or consents to participate in
22 alternative dispute resolution proceedings.

23 3. Nothing in this Compact shall be construed to be a
24 waiver of sovereign immunity.

1 b. Membership, Voting and Meetings

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

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

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

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

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

1 i. Noncompliance of a party state with its
2 obligations under this Compact;

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

8 iii. Current, threatened or reasonably anticipated
9 litigation;

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

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

14 vi. Disclosure of trade secrets or commercial or
15 financial information that is privileged or
16 confidential;

17 vii. Disclosure of information of a personal
18 nature where disclosure would constitute a clearly
19 unwarranted invasion of personal privacy;

20 viii. Disclosure of investigatory records compiled
21 for law enforcement purposes;

22 ix. Disclosure of information related to any
23 reports prepared by or on behalf of the Commission for
24 the purpose of investigation of compliance with this
25 Compact; or

26 x. Matters specifically exempted from disclosure

1 by federal or state statute.

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

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

20 1. Establishing the fiscal year of the Commission;

21 2. Providing reasonable standards and procedures:

22 i. For the establishment and meetings of other
23 committees; and

24 ii. Governing any general or specific delegation
25 of any authority or function of the Commission;

26 3. Providing reasonable procedures for calling and

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

12 4. Establishing the titles, duties and authority and
13 reasonable procedures for the election of the officers of
14 the Commission;

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

21 6. Providing a mechanism for winding up the operations
22 of the Commission and the equitable disposition of any
23 surplus funds that may exist after the termination of this
24 Compact after the payment or reserving of all of its debts
25 and obligations;

26 d. The Commission shall publish its bylaws and rules, and

1 any amendments thereto, in a convenient form on the website of
2 the Commission.

3 e. The Commission shall maintain its financial records in
4 accordance with the bylaws.

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

7 g. The Commission shall have the following powers:

8 1. To promulgate uniform rules to facilitate and
9 coordinate implementation and administration of this
10 Compact. The rules shall have the force and effect of law
11 and shall be binding in all party states;

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

16 3. To purchase and maintain insurance and bonds;

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

20 5. To cooperate with other organizations that
21 administer state compacts related to the regulation of
22 nursing, including but not limited to sharing
23 administrative or staff expenses, office space or other
24 resources;

25 6. To hire employees, elect or appoint officers, fix
26 compensation, define duties, grant such individuals

1 appropriate authority to carry out the purposes of this
2 Compact, and to establish the Commission's personnel
3 policies and programs relating to conflicts of interest,
4 qualifications of personnel and other related personnel
5 matters;

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

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

16 9. To sell, convey, mortgage, pledge, lease, exchange,
17 abandon or otherwise dispose of any property, whether real,
18 personal or mixed;

19 10. To establish a budget and make expenditures;

20 11. To borrow money;

21 12. To appoint committees, including advisory
22 committees comprised of administrators, state nursing
23 regulators, state legislators or their representatives,
24 and consumer representatives, and other such interested
25 persons;

26 13. To provide and receive information from, and to

1 cooperate with, law enforcement agencies;

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

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

7 h. Financing of the Commission

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

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

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

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

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

6 i. Qualified Immunity, Defense and Indemnification

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

21 2. The Commission shall defend any administrator,
22 officer, executive director, employee or representative of
23 the Commission in any civil action seeking to impose
24 liability arising out of any actual or alleged act, error
25 or omission that occurred within the scope of Commission
26 employment, duties or responsibilities, or that the person

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

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

21 ARTICLE VIII

22 Rulemaking

23 a. The Commission shall exercise its rulemaking powers
24 pursuant to the criteria set forth in this Article and the

1 rules adopted thereunder. Rules and amendments shall become
2 binding as of the date specified in each rule or amendment and
3 shall have the same force and effect as provisions of this
4 Compact.

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

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

12 1. On the website of the Commission; and

13 2. On the website of each licensing board or the
14 publication in which each state would otherwise publish
15 proposed rules.

16 d. The notice of proposed rulemaking shall include:

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

19 2. The text of the proposed rule or amendment, and the
20 reason for the proposed rule;

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

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

26 e. Prior to adoption of a proposed rule, the Commission

1 shall allow persons to submit written data, facts, opinions and
2 arguments, which shall be made available to the public.

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

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

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

12 2. Nothing in this section shall be construed as
13 requiring a separate hearing on each rule. Rules may be
14 grouped for the convenience of the Commission at hearings
15 required by this section.

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

18 i. Following the scheduled hearing date, or by the close of
19 business on the scheduled hearing date if the hearing was not
20 held, the Commission shall consider all written and oral
21 comments received.

22 j. The Commission shall, by majority vote of all
23 administrators, take final action on the proposed rule and
24 shall determine the effective date of the rule, if any, based
25 on the rulemaking record and the full text of the rule.

26 k. Upon determination that an emergency exists, the

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

9 1. Meet an imminent threat to public health, safety or
10 welfare;

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

13 3. Meet a deadline for the promulgation of an
14 administrative rule that is required by federal law or
15 rule.

16 1. The Commission may direct revisions to a previously
17 adopted rule or amendment for purposes of correcting
18 typographical errors, errors in format, errors in consistency
19 or grammatical errors. Public notice of any revisions shall be
20 posted on the website of the Commission. The revision shall be
21 subject to challenge by any person for a period of thirty (30)
22 days after posting. The revision may be challenged only on
23 grounds that the revision results in a material change to a
24 rule. A challenge shall be made in writing, and delivered to
25 the Commission, prior to the end of the notice period. If no
26 challenge is made, the revision will take effect without

1 further action. If the revision is challenged, the revision may
2 not take effect without the approval of the Commission.

3 ARTICLE IX

4 Oversight, Dispute Resolution and Enforcement

5 a. Oversight

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

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

17 b. Default, Technical Assistance and Termination

18 1. If the Commission determines that a party state has
19 defaulted in the performance of its obligations or
20 responsibilities under this Compact or the promulgated
21 rules, the Commission shall:

22 i. Provide written notice to the defaulting state
23 and other party states of the nature of the default,
24 the proposed means of curing the default or any other

1 action to be taken by the Commission; and

2 ii. Provide remedial training and specific
3 technical assistance regarding the default.

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

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

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

24 5. The Commission shall not bear any costs related to a
25 state that is found to be in default or whose membership in
26 this Compact has been terminated unless agreed upon in

1 writing between the Commission and the defaulting state.

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

8 c. Dispute Resolution

9 1. Upon request by a party state, the Commission shall
10 attempt to resolve disputes related to the Compact that
11 arise among party states and between party and non-party
12 states.

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

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

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

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

1 d. Enforcement

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

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

15 3. The remedies herein shall not be the exclusive
16 remedies of the Commission. The Commission may pursue any
17 other remedies available under federal or state law.

18 ARTICLE X

19 Effective Date, Withdrawal and Amendment

20 a. This Compact shall become effective and binding on the
21 earlier of the date of legislative enactment of this Compact
22 into law by no less than twenty-six (26) states or December 31,
23 2018. All party states to this Compact, that also were parties
24 to the prior Nurse Licensure Compact, superseded by this

1 Compact, ("Prior Compact"), shall be deemed to have withdrawn
2 from said Prior Compact within six (6) months after the
3 effective date of this Compact.

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

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

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

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

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

26 g. Representatives of non-party states to this Compact

1 shall be invited to participate in the activities of the
2 Commission, on a nonvoting basis, prior to the adoption of this
3 Compact by all states.

4 ARTICLE XI

5 Construction and Severability

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

20 (225 ILCS 65/85-10 new)

21 Sec. 85-10. State labor laws. The Nurse Licensure Compact
22 does not supersede existing State labor laws.