

1 S.125

2 Introduced by Senators Lyons and Ingram

3 Referred to Committee on Health and Welfare

4 Date: February 22, 2019

5 Subject: Professions and occupations; nursing; Nurse Licensure Compact

6 Statement of purpose of bill as introduced: This bill proposes to that the State

7 adopt and enter into the interstate Nurse Licensure Compact.

8 An act relating to Vermont's adoption of the interstate Nurse Licensure
9 Compact

10 It is hereby enacted by the General Assembly of the State of Vermont:

11 Sec. 1. 26 V.S.A. chapter 28, subchapter 5 is added to read:

12 Subchapter 5. Nurse Licensure Compact

13 § 1647. NURSE LICENSURE COMPACT; ADOPTION

14 This subchapter is the Vermont adoption of the Nurse Licensure Compact as
15 amended by the National Council of State Boards of Nursing. The form,
16 format, and text of the Compact have been conformed to the conventions of
17 the Vermont Statutes Annotated. It is the intent of the General Assembly that
18 this subchapter be interpreted as substantively the same as the Nurse Licensure
19 Compact that is enacted by other Compact party states.

1 § 1647a. FINDINGS AND DECLARATION OF PURPOSE

2 (a) The party states find that:

3 (1) The health and safety of the public are affected by the degree of
4 compliance with and the effectiveness of enforcement activities related to state
5 nurse licensure laws.

6 (2) Violations of nurse licensure and other laws regulating the practice
7 of nursing may result in injury or harm to the public.

8 (3) The expanded mobility of nurses and the use of advanced
9 communication technologies as part of our nation's health care delivery system
10 require greater coordination and cooperation among states in the areas of nurse
11 licensure and regulation.

12 (4) New practice modalities and technology make compliance with
13 individual state nurse licensure laws difficult and complex.

14 (5) The current system of duplicative licensure for nurses practicing in
15 multiple states is cumbersome and redundant for both nurses and states.

16 (6) Uniformity of nurse licensure requirements throughout the states
17 promotes public safety and public health benefits.

18 (b) The general purposes of this Compact are to:

19 (1) Facilitate the states' responsibility to protect the public's health and
20 safety.

1 (2) Ensure and encourage the cooperation of party states in the areas of
2 nurse licensure and regulation.

3 (3) Facilitate the exchange of information between party states in the
4 areas of nurse regulation, investigation, and adverse actions.

5 (4) Promote compliance with the laws governing the practice of nursing
6 in each jurisdiction.

7 (5) Invest all party states with the authority to hold a nurse accountable
8 for meeting all state practice laws in the state in which the patient is located at
9 the time care is rendered through the mutual recognition of party state licenses.

10 (6) Decrease redundancies in the consideration and issuance of nurse
11 licenses.

12 (7) Provide opportunities for interstate practice by nurses who meet
13 uniform licensure requirements.

14 § 1647b. DEFINITIONS

15 As used in this subchapter:

16 (1) “Adverse action” means any administrative, civil, equitable, or
17 criminal action permitted by a state’s laws that is imposed by a licensing board
18 or other authority against a nurse, including actions against an individual’s
19 license or multistate licensure privilege, such as revocation, suspension,
20 probation, monitoring of the licensee, limitation on the licensee’s practice, or

1 any other encumbrance on licensure affecting a nurse's authorization to
2 practice, including issuance of a cease and desist action.

3 (2) "Alternative program" means a nondisciplinary monitoring program
4 approved by a licensing board.

5 (3) "Commission" means the Interstate Commission of Nurse Licensure
6 Compact Administrators.

7 (4) "Coordinated licensure information system" means an integrated
8 process for collecting, storing, and sharing information on nurse licensure and
9 enforcement activities related to nurse licensure laws that is administered by a
10 nonprofit organization composed of and controlled by licensing boards.

11 (5) "Current significant investigative information" means:

12 (A) investigative information that a licensing board, after a
13 preliminary inquiry that includes notification and an opportunity for the nurse
14 to respond, if required by state law, has reason to believe is not groundless and,
15 if proved true, would indicate more than a minor infraction; or

16 (B) investigative information that indicates that the nurse represents
17 an immediate threat to public health and safety regardless of whether the nurse
18 has been notified and had an opportunity to respond.

19 (6) "Encumbrance" means a revocation or suspension of, or any
20 limitation on, the full and unrestricted practice of nursing imposed by a
21 licensing board.

1 (7) “Home state” means the party state that is the nurse’s primary state
2 of residence.

3 (8) “Licensing board” means a party state’s regulatory body responsible
4 for issuing nurse licenses.

5 (9) “Multistate license” means a license to practice as a registered nurse
6 (RN) or a licensed practical or vocational nurse (LPN/VN) issued by a home
7 state licensing board that authorizes the licensed nurse to practice in all party
8 states under a multistate licensure privilege.

9 (10) “Multistate licensure privilege” means a legal authorization
10 associated with a multistate license permitting the practice of nursing as either
11 an RN or LPN/VN in a remote state.

12 (11) “Nurse” means RN or LPN/VN, as those terms are defined by each
13 party state’s practice laws.

14 (12) “Party state” means any state that has adopted this Compact.

15 (13) “Remote state” means a party state other than the home state.

16 (14) “Single-state license” means a nurse license issued by a party state
17 that authorizes practice only within the issuing state and does not include a
18 multistate licensure privilege to practice in any other party state.

19 (15) “State” means a state, territory, or possession of the United States
20 and the District of Columbia.

1 (16) “State practice laws” means a party state’s laws, rules, and
2 regulations that govern the practice of nursing, define the scope of nursing
3 practice, and create the methods and grounds for imposing discipline. “State
4 practice laws” do not include requirements necessary to obtain and retain a
5 license, except for qualifications or requirements of the home state.

6 § 1647c. GENERAL PROVISIONS AND JURISDICTION

7 (a) A multistate license to practice registered or licensed practical or
8 vocational nursing issued by a home state to a resident in that state will be
9 recognized by each party state as authorizing a nurse to practice as an RN or
10 LPN/VN, under a multistate licensure privilege, in each party state.

11 (b) A state must implement procedures for considering the criminal history
12 records of applicants for initial multistate license or licensure by endorsement.
13 Such procedures shall include the submission of fingerprints or other
14 biometric-based information by applicants for the purpose of obtaining an
15 applicant’s criminal history record information from the Federal Bureau of
16 Investigation and the agency responsible for retaining that state’s criminal
17 records.

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

20 (1) meets the home state’s qualifications for licensure or renewal of
21 licensure, as well as all other applicable state laws;

1 (2)(A) has graduated or is eligible to graduate from a licensing board-
2 approved RN or LPN/VN pre-licensure education program; or

3 (B) has graduated from a foreign RN or LPN/VN pre-licensure
4 education program that has been:

5 (i) approved by the authorized accrediting body in the applicable
6 country; and

7 (ii) verified by an independent credentials review agency to be
8 comparable to a licensing board-approved pre-licensure education program;

9 (3) has, if a graduate of a foreign pre-licensure education program not
10 taught in English or if English is not the individual's native language,
11 successfully passed an English proficiency examination that includes the
12 components of reading, speaking, writing, and listening;

13 (4) has successfully passed an NCLEX-RN or NCLEX-PN Examination
14 or recognized predecessor, as applicable;

15 (5) is eligible for or holds an active, unencumbered license;

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

1 (7) has not been convicted or found guilty, or has entered into an agreed
2 disposition, of a felony offense under applicable state or federal criminal law;

3 (8) has not been convicted or found guilty, or has entered into an agreed
4 disposition, of a misdemeanor offense related to the practice of nursing as
5 determined on a case-by-case basis;

6 (9) is not currently enrolled in an alternative program;

7 (10) is subject to self-disclosure requirements regarding current
8 participation in an alternative program; and

9 (11) has a valid U.S. Social Security number.

10 (d) All party states shall be authorized, in accordance with existing state
11 due process law, to take adverse action against a nurse's multistate licensure
12 privilege, such as revocation, suspension, probation, or any other action that
13 affects a nurse's authorization to practice under a multistate licensure
14 privilege, including cease and desist actions. If a party state takes such action,
15 it shall promptly notify the administrator of the coordinated licensure
16 information system. The administrator of the coordinated licensure
17 information system 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 state practice
20 laws of the state in which the client is located at the time service is provided.

21 The practice of nursing is not limited to patient care, but shall include all

1 nursing practice as defined by the state practice laws of the party state in which
2 the client is located. The practice of nursing in a party state under a multistate
3 licensure privilege will subject a nurse to the jurisdiction of the licensing
4 board, the courts, and the laws of the party state in which the client is located
5 at the time service is provided.

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

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

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

18 (2) A nurse who fails to satisfy the multistate licensure requirements in
19 subsection (c) of this section due to a disqualifying event occurring after this
20 Compact's effective date shall be ineligible to retain or renew a multistate
21 license, and the nurse's multistate license shall be revoked or deactivated in

1 accordance with applicable rules adopted by the Interstate Commission of
2 Nurse Licensure Compact Administrators.

3 § 1647d. APPLICATIONS FOR LICENSURE IN A PARTY STATE

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

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

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

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

20 (2) A multistate license shall not be issued by the new home state until
21 the nurse provides satisfactory evidence of a change in primary state of

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

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

6 § 1647e. ADDITIONAL AUTHORITY INVESTED IN PARTY STATE

7 LICENSING BOARDS

8 (a) In addition to the other powers conferred by state law, a licensing board
9 shall have the authority to:

10 (1) Take adverse action against a nurse's multistate licensure privilege
11 to practice within that party state.

12 (A) Only the home state shall have the power to take adverse action
13 against a nurse's license issued by the home state.

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

19 (2) Issue cease and desist orders or impose an encumbrance on a nurse's
20 authority to practice within that party state.

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

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

17 (5) Obtain and submit, for each nurse licensure applicant, fingerprint or
18 other biometric-based information to the Federal Bureau of Investigation for
19 criminal background checks, receive the results of the Federal Bureau of
20 Investigation record search on criminal background checks, and use the results
21 in making licensure decisions.

1 (6) If otherwise permitted by state law, recover from the affected nurse
2 the costs of investigations and disposition of cases resulting from any adverse
3 action taken against that nurse.

4 (7) Take adverse action based on the factual findings of the remote state,
5 provided that the licensing board follows its own procedures for taking such
6 adverse action.

7 (b) If adverse action is taken by the home state against a nurse's multistate
8 license, the nurse's multistate licensure privilege to practice in all other party
9 states shall be deactivated until all encumbrances have been removed from the
10 multistate license. All home state disciplinary orders that impose adverse
11 action against a nurse's multistate license shall include a statement that the
12 nurse's multistate licensure privilege is deactivated in all party states during
13 the pendency of the order.

14 (c) Nothing in this Compact shall override a party state's decision that
15 participation in an alternative program may be used in lieu of adverse action.
16 The home state licensing board shall deactivate the multistate licensure
17 privilege under the multistate license of any nurse for the duration of the
18 nurse's participation in an alternative program.

19 § 1647f. COORDINATED LICENSURE INFORMATION SYSTEM

20 (a) All party states shall participate in a coordinated licensure information
21 system of all licensed RNs and LPNs/VNs. This system will include

1 information on the licensure and disciplinary history of each nurse, as
2 submitted by party states, to assist in the coordination of nurse licensure and
3 enforcement efforts.

4 (b) The Commission, in consultation with the administrator of the
5 coordinated licensure information system, shall formulate necessary and
6 proper procedures for the identification, collection, and exchange of
7 information under this Compact.

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

14 (d) Current significant investigative information and participation in
15 nonpublic or confidential alternative programs shall be transmitted through the
16 coordinated licensure information system only to party state licensing boards.

17 (e) Notwithstanding any other provision of law, all party state licensing
18 boards contributing information to the coordinated licensure information
19 system may designate information that may not be shared with non-party states
20 or disclosed to other entities or individuals without the express permission of
21 the contributing state.

1 (f) Any personally identifiable information obtained from the coordinated
2 licensure information system by a party state licensing board shall not be
3 shared with non-party states or disclosed to other entities or individuals except
4 to the extent permitted by the laws of the party state contributing the
5 information.

6 (g) Any information contributed to the coordinated licensure information
7 system that is subsequently required to be expunged by the laws of the party
8 state contributing that information shall also be expunged from the coordinated
9 licensure information system.

10 (h) The Compact administrator of each party state shall furnish a uniform
11 data set to the Compact administrator of each other party state, which shall
12 include, at a minimum:

13 (1) identifying information;

14 (2) licensure data;

15 (3) information related to alternative program participation; and

16 (4) other information that may facilitate the administration of this

17 Compact, as determined by Commission rules.

18 (i) The Compact administrator of a party state shall provide all
19 investigative documents and information requested by another party state.

1 § 1647g. INTERSTATE COMMISSION OF NURSE LICENSURE

2 COMPACT ADMINISTRATORS; ESTABLISHMENT

3 (a) The party states hereby create and establish a joint public entity known
4 as the Interstate Commission of Nurse Licensure Compact Administrators.

5 (1) The Commission is an instrumentality of the party states.

6 (2) Venue is proper, and judicial proceedings by or against the
7 Commission shall be brought solely and exclusively, in a court of competent
8 jurisdiction, where the principal office of the Commission is located. The
9 Commission may waive venue and jurisdictional defenses to the extent it
10 adopts or consents to participate in alternative dispute resolution proceedings.

11 (3) Nothing in this Compact shall be construed to be a waiver of
12 sovereign immunity.

13 (b) Membership, voting, and meetings.

14 (1) Each party state shall have and be limited to one administrator. The
15 head of the state licensing board or designee shall be the administrator of this
16 Compact for each party state. Any administrator may be removed or
17 suspended from office as provided by the law of the state from which the
18 administrator is appointed. Any vacancy occurring in the Commission shall be
19 filled in accordance with the laws of the party state in which the vacancy
20 exists.

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

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

10 (4) All meetings shall be open to the public, and public notice of
11 meetings shall be given in the same manner as required under the rulemaking
12 provisions in section 1647h of this chapter.

13 (5) The Commission may convene in a closed, nonpublic meeting if the
14 Commission must discuss:

15 (A) noncompliance of a party state with its obligations under this
16 Compact;

17 (B) the employment, compensation, discipline, or other personnel
18 matters, practices, or procedures related to specific employees or other matters
19 related to the Commission's internal personnel practices and procedures;

20 (C) current, threatened, or reasonably anticipated litigation;

1 (D) negotiation of contracts for the purchase or sale of goods,
2 services, or real estate;

3 (E) accusing any person of a crime or formally censuring any person;

4 (F) disclosure of trade secrets or commercial or financial information
5 that is privileged or confidential;

6 (G) disclosure of information of a personal nature where disclosure
7 would constitute a clearly unwarranted invasion of personal privacy;

8 (H) disclosure of investigatory records compiled for law enforcement
9 purposes;

10 (I) disclosure of information related to any reports prepared by or on
11 behalf of the Commission for the purpose of investigation of compliance with
12 this Compact; or

13 (J) matters specifically exempted from disclosure by federal or state
14 statute.

15 (6) If a meeting, or portion of a meeting, is closed pursuant to this
16 provision, the Commission's legal counsel or designee shall certify that the
17 meeting may be closed and shall reference each relevant exempting provision.
18 The Commission shall keep minutes that fully and clearly describe all matters
19 discussed in a meeting and shall provide a full and accurate summary of
20 actions taken, and the reasons therefor, including a description of the views
21 expressed. All documents considered in connection with an action shall be

1 identified in such minutes. All minutes and documents of a closed meeting
2 shall remain under seal, subject to release by a majority vote of the
3 Commission or order of a court of competent jurisdiction.

4 (c) The Commission shall, by a majority vote of the administrators,
5 prescribe bylaws or rules to govern its conduct as may be necessary or
6 appropriate to carry out the purposes and exercise the powers of this Compact,
7 including, but not limited to:

8 (1) Establishing the fiscal year of the Commission.

9 (2) Providing reasonable standards and procedures:

10 (A) for the establishment and meetings of other committees; and

11 (B) governing any general or specific delegation of any authority or
12 function of the Commission.

13 (3) Providing reasonable procedures for calling and conducting
14 meetings of the Commission, ensuring reasonable advance notice of all
15 meetings, and providing an opportunity for attendance of such meetings by
16 interested parties, with enumerated exceptions designed to protect the public's
17 interest, the privacy of individuals, and proprietary information, including
18 trade secrets. The Commission may meet in closed session only after a
19 majority of the administrators vote to close a meeting in whole or in part. As
20 soon as practicable, the Commission must make public a copy of the vote to

1 close the meeting, revealing the vote of each administrator, with no proxy
2 votes allowed.

3 (4) Establishing the titles, duties, and authority and reasonable
4 procedures for the election of the officers of the Commission.

5 (5) Providing reasonable standards and procedures for the establishment
6 of the personnel policies and programs of the Commission. Notwithstanding
7 any civil service or other similar laws of any party state, the bylaws shall
8 exclusively govern the personnel policies and programs of the Commission.

9 (6) Providing a mechanism for winding up the operations of the
10 Commission and the equitable disposition of any surplus funds that may exist
11 after the termination of this Compact after the payment or reserving of all of
12 its debts and obligations.

13 (d) The Commission shall publish its bylaws and rules, and any
14 amendments thereto, in a convenient form on the website of the Commission.

15 (e) The Commission shall maintain its financial records in accordance with
16 the bylaws.

17 (f) The Commission shall meet and take such actions as are consistent with
18 the provisions of this Compact and the bylaws.

1 (g) The Commission shall have the following powers:

2 (1) To promulgate uniform rules to facilitate and coordinate
3 implementation and administration of this Compact. The rules shall have the
4 force and effect of law and shall be binding in all party states.

5 (2) To bring and prosecute legal proceedings or actions in the name of
6 the Commission, provided that the standing of any licensing board to sue or be
7 sued under applicable law shall not be affected.

8 (3) To purchase and maintain insurance and bonds.

9 (4) To borrow, accept, or contract for services of personnel, including,
10 but not limited to, employees of a party state or nonprofit organizations.

11 (5) To cooperate with other organizations that administer state compacts
12 related to the regulation of nursing, including, but not limited to, sharing
13 administrative or staff expenses, office space, or other resources.

14 (6) To hire employees, elect or appoint officers, fix compensation,
15 define duties, and grant such individuals appropriate authority to carry out the
16 purposes of this Compact and to establish the Commission's personnel policies
17 and programs relating to conflicts of interest, qualifications of personnel, and
18 other related personnel matters.

19 (7) To accept any and all appropriate donations, grants, and gifts of
20 money, equipment, supplies, materials, and services and to receive, utilize, and

1 dispose of the same, provided that at all times the Commission shall avoid any
2 appearance of impropriety or conflict of interest.

3 (8) To lease, purchase, accept appropriate gifts or donations of, or
4 otherwise to own, hold, improve, or use any property, whether real, personal,
5 or mixed, provided that at all times the Commission shall avoid any
6 appearance of impropriety.

7 (9) To sell, convey, mortgage, pledge, lease, exchange, abandon, or
8 otherwise dispose of any property, whether real, personal, or mixed.

9 (10) To establish a budget and make expenditures.

10 (11) To borrow money.

11 (12) To appoint committees, including advisory committees composed
12 of administrators, state nursing regulators, state legislators or their
13 representatives, consumer representatives, and other such interested persons.

14 (13) To provide and receive information from, and to cooperate with,
15 law enforcement agencies.

16 (14) To adopt and use an official seal.

17 (15) To perform such other functions as may be necessary or
18 appropriate to achieve the purposes of this Compact consistent with the state
19 regulation of nurse licensure and practice.

1 (h) Financing of the Commission.

2 (1) The Commission shall pay, or provide for the payment of, the
3 reasonable expenses of its establishment, organization, and ongoing activities.

4 (2) The Commission may also levy on and collect an annual assessment
5 from each party state to cover the cost of its operations, activities, and staff in
6 its annual budget as approved each year. The aggregate annual assessment
7 amount, if any, shall be allocated based upon a formula to be determined by
8 the Commission, which shall promulgate a rule that is binding upon all party
9 states.

10 (3) The Commission shall not incur obligations of any kind prior to
11 securing the funds adequate to meet the same, nor shall the Commission
12 pledge the credit of any of the party states, except by, and with the authority
13 of, such party state.

14 (4) The Commission shall keep accurate accounts of all receipts and
15 disbursements. The receipts and disbursements of the Commission shall be
16 subject to the audit and accounting procedures established under its bylaws.
17 However, all receipts and disbursements of funds handled by the Commission
18 shall be audited yearly by a certified or licensed public accountant, and the
19 report of the audit shall be included in and become part of the annual report of
20 the Commission.

1 (i) Qualified immunity, defense, and indemnification.

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

13 (2) The Commission shall defend any administrator, officer, executive
14 director, employee, or representative of the Commission in any civil action
15 seeking to impose liability arising out of any actual or alleged act, error, or
16 omission that occurred within the scope of Commission employment, duties,
17 or responsibilities, or that the person against whom the claim is made had a
18 reasonable basis for believing occurred within the scope of Commission
19 employment, duties, or responsibilities, provided that nothing herein shall be
20 construed to prohibit that person from retaining his or her own counsel, and

1 provided further that the actual or alleged act, error, or omission did not result
2 from that person's intentional, willful, or wanton misconduct.

3 (3) The Commission shall indemnify and hold harmless any
4 administrator, officer, executive director, employee, or representative of the
5 Commission for the amount of any settlement or judgment obtained against
6 that person arising out of any actual or alleged act, error, or omission that
7 occurred within the scope of Commission employment, duties, or
8 responsibilities, or that such person had a reasonable basis for believing
9 occurred within the scope of Commission employment, duties, or
10 responsibilities, provided that the actual or alleged act, error, or omission did
11 not result from the intentional, willful, or wanton misconduct of that person.

12 § 1647h. RULEMAKING

13 (a) The Commission shall exercise its rulemaking powers pursuant to the
14 criteria set forth in this section and the rules adopted thereunder. Rules and
15 amendments shall become binding as of the date specified in each rule or
16 amendment and shall have the same force and effect as provisions of this
17 Compact.

18 (b) Rules or amendments to the rules shall be adopted at a regular or
19 special meeting of the Commission.

20 (c) Prior to promulgation and adoption of a final rule or rules by the
21 Commission, and at least 60 days in advance of the meeting at which the rule

1 will be considered and voted upon, the Commission shall file a notice of
2 proposed rulemaking:

3 (1) on the website of the Commission; and

4 (2) on the website of each licensing board or the publication in which
5 each state would otherwise publish proposed rules.

6 (d) The notice of proposed rulemaking shall include:

7 (1) the proposed time, date, and location of the meeting in which the
8 rule will be considered and voted upon;

9 (2) the text of the proposed rule or amendment and the reason for the
10 proposed rule;

11 (3) a request for comments on the proposed rule from any interested
12 person; and

13 (4) the manner in which interested persons may submit notice to the
14 Commission of their intention to attend the public hearing and any written
15 comments.

16 (e) Prior to adoption of a proposed rule, the Commission shall allow
17 persons to submit written data, facts, opinions, and arguments, which shall be
18 made available to the public.

19 (f) The Commission shall grant an opportunity for a public hearing before
20 it adopts a rule or amendment.

1 (g) The Commission shall publish the place, time, and date of the
2 scheduled public hearing.

3 (1) Hearings shall be conducted in a manner providing each person who
4 wishes to comment a fair and reasonable opportunity to comment orally or in
5 writing. All hearings will be recorded, and a copy will be made available upon
6 request.

7 (2) Nothing in this section shall be construed as requiring a separate
8 hearing on each rule. Rules may be grouped for the convenience of the
9 Commission at hearings required by this section.

10 (h) If no one appears at the public hearing, the Commission may proceed
11 with promulgation of the proposed rule.

12 (i) Following the scheduled hearing date, or by the close of business on the
13 scheduled hearing date if the hearing was not held, the Commission shall
14 consider all written and oral comments received.

15 (j) The Commission shall, by majority vote of all administrators, take final
16 action on the proposed rule and shall determine the effective date of the rule, if
17 any, based on the rulemaking record and the full text of the rule.

18 (k) Upon determination that an emergency exists, the Commission may
19 consider and adopt an emergency rule without prior notice, opportunity for
20 comment, or hearing, provided that the usual rulemaking procedures provided
21 in this Compact and in this section shall be retroactively applied to the rule as

1 soon as reasonably possible, in no event later than 90 days after the effective
2 date of the rule. For the purposes of this provision, an emergency rule is one
3 that must be adopted immediately in order to:

4 (1) meet an imminent threat to public health, safety, or welfare;

5 (2) prevent a loss of Commission or party state funds; or

6 (3) meet a deadline for the promulgation of an administrative rule that is
7 required by federal law or rule.

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

1 § 1647i. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

2 (a) Oversight.

3 (1) Each party state shall enforce this Compact and take all actions
4 necessary and appropriate to effectuate this Compact's purposes and intent.

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

11 (b) Default, technical assistance, and termination.

12 (1) If the Commission determines that a party state has defaulted in the
13 performance of its obligations or responsibilities under this Compact or the
14 promulgated rules, the Commission shall:

15 (A) provide written notice to the defaulting state and other party
16 states of the nature of the default, the proposed means of curing the default, or
17 any other action to be taken by the Commission; and

18 (B) provide remedial training and specific technical assistance
19 regarding the default.

20 (2) If a state in default fails to cure the default, the defaulting state's
21 membership in this Compact may be terminated upon an affirmative vote of a

1 majority of the administrators, and all rights, privileges, and benefits conferred
2 by this Compact may be terminated on the effective date of termination. A
3 cure of the default does not relieve the offending state of obligations or
4 liabilities incurred during the period of default.

5 (3) Termination of membership in this Compact shall be imposed only
6 after all other means of securing compliance have been exhausted. Notice of
7 intent to suspend or terminate shall be given by the Commission to the
8 governor of the defaulting state and to the executive officer of the defaulting
9 state's licensing board and each of the party states.

10 (4) A state whose membership in this Compact has been terminated is
11 responsible for all assessments, obligations, and liabilities incurred through the
12 effective date of termination, including obligations that extend beyond the
13 effective date of termination.

14 (5) The Commission shall not bear any costs related to a state that is
15 found to be in default or whose membership in this Compact has been
16 terminated unless agreed upon in writing between the Commission and the
17 defaulting state.

18 (6) The defaulting state may appeal the action of the Commission by
19 petitioning the U.S. District Court for the District of Columbia or the federal
20 district in which the Commission has its principal offices. The prevailing

1 party shall be awarded all costs of such litigation, including reasonable
2 attorney's fees.

3 (c) Dispute resolution.

4 (1) Upon request by a party state, the Commission shall attempt to
5 resolve disputes related to the Compact that arise among party states and
6 between party and non-party states.

7 (2) The Commission shall promulgate a rule providing for both
8 mediation and binding dispute resolution for disputes, as appropriate.

9 (3) In the event the Commission cannot resolve disputes among party
10 states arising under this Compact:

11 (A) The party states may submit the issues in dispute to an arbitration
12 panel, which will be composed of individuals appointed by the Compact
13 administrator in each of the affected party states and an individual mutually
14 agreed upon by the Compact administrators of all the party states involved in
15 the dispute.

16 (B) The decision of a majority of the arbitrators shall be final and
17 binding.

18 (d) Enforcement.

19 (1) The Commission, in the reasonable exercise of its discretion, shall
20 enforce the provisions and rules of this Compact.

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

9 (3) The remedies herein shall not be the exclusive remedies of the
10 Commission. The Commission may pursue any other remedies available
11 under federal or state law.

12 § 1647j. EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT

13 (a) This Compact shall become effective and binding on the earlier of the
14 date of legislative enactment of this Compact into law by no fewer than
15 26 states or December 31, 2018. All party states to this Compact that also
16 were parties to the prior Nurse Licensure Compact superseded by this Compact
17 (“Prior Compact”), shall be deemed to have withdrawn from the Prior
18 Compact within six months after the effective date of this Compact.

19 (b) Each party state to this Compact shall continue to recognize a nurse’s
20 multistate licensure privilege to practice in that party state issued under the
21 Prior Compact until such party state has withdrawn from the Prior Compact.

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

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

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

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

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

18 § 1647k. CONSTRUCTION AND SEVERABILITY

19 This Compact shall be liberally construed so as to effectuate the purposes
20 thereof. The provisions of this Compact shall be severable, and if any phrase,
21 clause, sentence, or provision of this Compact is declared to be contrary to the

1 constitution of any party state or of the United States, or if the applicability
2 thereof to any government, agency, person, or circumstance is held invalid, the
3 validity of the remainder of this Compact and the applicability thereof to any
4 government, agency, person, or circumstance shall not be affected thereby. If
5 this Compact shall be held to be contrary to the constitution of any party state,
6 this Compact shall remain in full force and effect as to the remaining party
7 states and in full force and effect as to the party state affected as to all
8 severable matters.

9 § 1648. ADMINISTRATION OF THE NURSE LICENSURE COMPACT

10 (a) The Vermont State Board of Nursing shall have the power to:

11 (1) oversee the administration and enforcement of the Nurse Licensure
12 Compact within the State;

13 (2) recover from a nurse practicing under the provisions of the Nurse
14 Licensure Compact the cost of investigation and disposition of a case resulting
15 in adverse action taken against that nurse;

16 (3) establish fees to offset the costs associated with administering this
17 subchapter; and

18 (4) conduct a background check, prior to issuing a multistate license
19 under the provisions of the Nurse Licensure Compact, that includes a
20 fingerprint-based check of State and federal criminal history databases, as
21 authorized by 28 C.F.R. § 20.33.

1 **(b) The Executive Director of the Vermont State Board of Nursing or**
2 **designee shall be the administrator of the Nurse Licensure Compact for the**
3 **State of Vermont pursuant to subdivision 1647g(b)(1) of this chapter.**

4 **(c) The Vermont State Board of Nursing may:**

5 **(1) adopt rules necessary to implement and enforce the provisions of**
6 **this subchapter within the State; and**

7 **(2) take disciplinary action against the practice privilege of a nurse**
8 **practicing within the State under the provisions of the Nurse Licensure**
9 **Compact, which may include disciplinary action based on disciplinary action**
10 **taken against the nurse's license by another party state to the Nurse Licensure**
11 **Compact.**

12 **(d) Nothing in this subchapter shall supersede or abridge State labor laws.**

13 **Sec. 2. EFFECTIVE DATE**

This act shall take effect on ~~December 1, 2019~~ February 1, 2021.