House Health Care Committee (& House Human Services?) proposals re COVID-19

* * * State of Emergency; Legislative Intent * * *

Sec. 1. STATE OF EMERGENCY; LEGISLATIVE INTENT

It is the intent of the General Assembly that, if the coronavirus disease 2019 (COVID-19) pandemic continues its expected spread in the State of Vermont, the Governor should exercise the authority granted by 20 V.S.A. § 9 to declare a state of emergency based on the all-hazards event of the COVID-19 disease-related emergency. In addition to the emergency powers granted to the Governor by 20 V.S.A. §§ 9 and 11 during a state of emergency, such a declaration may initiate opportunities to expand access to necessary health care services. For example, 3 V.S.A. § 129(a)(10) allows certain professional licensing boards to issue temporary licenses during a declared state of emergency to health care providers who are licensed in good standing in another state to allow them to practice in Vermont for up to 90 days. These temporary licensees will likely be necessary to help provide critical health care services to Vermonters who become afflicted with COVID-19.

* * * Measures to Support Health Care and Human Service Provider Sustainability * * *

Sec. 2. SECRETARY OF HUMAN SERVICES; TEMPORARY PROVIDER TAX WAIVER AUTHORITY

The Secretary of Human Services may waive payment of the assessment imposed by 33 V.S.A. chapter 19, subchapter 2 for one or more classes of health care providers for all or a prorated portion of fiscal year 2021 if the following two conditions are met:

(1) the Governor has declared a state of emergency as a result of COVID-19; and

(2) the waiver is necessary to preserve the ability of the providers to continue offering necessary health care services.

Sec. 3. AGENCY OF HUMAN SERVICES; PROVIDER PAYMENT FLEXIBILITY

Notwithstanding any provision of law to the contrary, during a declared state of emergency in Vermont as a result of COVID-19, the Agency of Human Services may provide payments to providers of health care services, long-term care services and supports, home- and community-based services, and child care services in the absence of claims or utilization if a provider's patients or clients are not seeking services due to the COVID-19 pandemic, even if federal matching funds that would otherwise apply are not available, in order to sustain these providers and enable them to continue providing services both during and after the outbreak of COVID-19 in Vermont.

Sec. 4. DEPARTMENT OF VERMONT HEALTH ACCESS; MEDICAID PARTICIPATING PROVIDERS; CASH ADVANCES

During a declared state of emergency in Vermont as a result of COVID-19, the Department of Vermont Health Access may provide cash advances to Medicaid participating providers without applying rules regarding expected claims payment. **(?)**

Sec. 5. FEDERALLY QUALIFIED HEALTH CENTERS; RURAL HEALTH CENTERS; MEDICAID ENCOUNTER RATE

During a declared state of emergency in Vermont as a result of COVID-19, the Department of Vermont Health Access shall reimburse federally qualified health centers and rural health centers using the alternative payment flexibility Medicaid encounter rate instead of the standard prospective payment system Medicaid encounter rate.

* * * Compliance Flexibility * * *

Sec. 6. HEALTH CARE AND HUMAN SERVICE PROVIDER REGULATION; WAIVER OR VARIANCE PERMITTED

Notwithstanding any provision of the Agency of Human Services' administrative rules or standards to the contrary, during a declared state of emergency in Vermont as a result of COVID-19, the Secretary of Human Services may waive or permit variances from the following State rules and standards governing providers of health care services and human services as necessary to prioritize and maximize direct patient care and to allow for continuation of operations with a reduced workforce and with flexible staffing arrangements that are responsive to evolving needs:

(1) Hospital Licensing Rule;

(2) Hospital Reporting Rule;

(3) Nursing Home Licensing and Operating Rule;

(4) Home Health Agency Designation and Operation Regulations;

(5) Residential Care Home Licensing Regulations;

(6) Assisted Living Residence Licensing Regulations;

(7) Home for the Terminally Ill Licensing Regulations;

(8) Standards for Adult Day Services;

(9) Therapeutic Community Residences Licensing Regulations;

(10) Choices for Care High/Highest Manual; and

(11) other rules and standards for which the Agency of Human Services is the adopting authority under 3 V.S.A. chapter 25, to the extent such waivers or variances are permitted under federal law.

Sec. 7. MEDICAID AND HEALTH INSURERS; PROVIDER CREDENTIALING

During a declared state of emergency in Vermont as a result of COVID-19, the Department of Vermont Health access shall relax provider credentialing requirements for the Medicaid

program, and the Department of Financial Regulation shall direct health insurers to relax provider credentialing requirements for health insurance plans, in order to allow for individual health care providers to deliver services across health care settings as needed to respond to Vermonters' evolving health care needs.

Sec. 8. RETIRED HEALTH CARE PROVIDERS; BOARD OF MEDICAL PRACTICE; OFFICE OF PROFESSIONAL REGULATION

During a declared state of emergency in Vermont as a result of COVID-19, the Board of Medical Practice and the Office of Professional Regulation may permit former health care professionals who retired within the past 10 years with their license in good standing to return to the health care workforce on a temporary basis to help deliver care in response to COVID-19. The Board of Medical Practice and Office of Professional Regulation may issue temporary licenses to the former licensees and may impose limitations on the scope of practice of returning health care professionals as the Board or Office deems appropriate.

Sec. 9. INVOLUNTARY PROCEDURES; DOCUMENTATION AND REPORTING REQUIREMENTS; WAIVER PERMITTED

Notwithstanding any provision of law to the contrary, during a declared state of emergency in Vermont as a result of COVID-19, the court or the Department of Mental Health may waive any penalties associated with a treating health care provider's failure to comply with one or more of the documentation and reporting requirements related to involuntary treatment pursuant to 18 V.S.A. chapter 181.

* * * Access to Health Care Services and Human Services * * *

Sec. 10. HEALTH INSURANCE PLANS; MEDICAID; COVID-19 TREATMENT; COST-SHARING PROHIBITED

(a) As used in this section, "health insurance plan" means any health insurance policy or health benefit plan offered by a health insurer, as defined in 18 V.S.A. § 9402, as well as Medicaid and any other public health care assistance program offered or administered by the State or by any subdivision or instrumentality of the State. The term does not include policies or plans providing coverage for a specified disease or other limited benefit coverage.

(b) During a declared state of emergency in Vermont as a result of COVID-19:

(1) health insurance plans shall not impose any co-payment, coinsurance, deductible, or other cost-sharing requirement for health care services directly related to COVID-19 treatment or prevention;

(2) health insurance plans shall suspend deductible requirements for all prescription drugs and shall impose only the applicable co-payment or coinsurance requirement under the plan, except to the extent that such a deductible suspension would disqualify a high-deductible health plan from eligibility for a health savings account pursuant to 26 U.S.A. § 223; and

(3) health insurance plans and Vermont Medicaid shall allow their members to refill prescriptions for chronic maintenance medications early to enable the members to maintain a 30-day supply of each prescribed maintenance medication at home.

Sec. 11. PHARMACISTS; CLINICAL PHARMACY; EXTENSION OF PRESCRIPTION FOR MAINTENANCE MEDICATION

(a) During a declared state of emergency in Vermont as a result of COVID-19, a pharmacist may extend a previous prescription for a maintenance medication for which the patient has no refills remaining or for which the authorization for refills has recently expired if it is not feasible to obtain a new prescription or refill authorization from the prescriber.

(b) A pharmacist who extends a prescription for a maintenance medication pursuant to this section shall take all reasonable measures to notify the prescriber of the prescription extension in a timely manner.

(c) As used in this section, "maintenance medication" means a prescription drug taken on a regular basis over an extended period of time to treat a chronic or long-term condition. The term does not include a regulated drug, as defined in 18 V.S.A. § 4201.

Sec. 12. OLDER VERMONTERS; NUTRITION SERVICES; EXPANDED CAPACITY

During a declared state of emergency in Vermont as a result of COVID-19, the Agency of Human Services, in consultation with the area agencies on aging, shall expand the State's capacity to provide nutrition services to those individuals who are eligible for nutrition services under the Older Americans Act and who have critical health issues.

Sec. 13. LONG-TERM CARE FACILITIES AND PROGRAMS; BED-HOLD DAYS

During a declared state of emergency in Vermont as a result of COVID-19, the Agency of Human Services shall reimburse long-term care facilities and programs for bed-hold days.

* * * Quarantine for COVID-19 as Exception to Seclusion * * *

Sec. 14. DEPARTMENT OF MENTAL HEALTH; ISOLATION OR QUARANTINE OF INVOLUNTARY PATIENT FOR COVID-19 NOT SECLUSION

Notwithstanding any provision of statute or rule to the contrary, it shall not be considered the involuntary procedure of seclusion for an involuntary patient in the custody of the Commissioner of Mental Health to be placed in quarantine if the patient has been exposed to COVID-19 or in isolation if the patient has tested positive for COVID-19 .

* * * Telehealth * * *

Sec. 15. TELEHEALTH EXPANSION; LEGISLATIVE INTENT

It is the intent of the General Assembly to increase Vermonters' access to health care services through an expansion of telehealth services without increasing social isolation or supplanting the role of local, community-based health care providers throughout rural Vermont.

Sec. 16. 8 V.S.A. § 4100k is amended to read:

§ 4100k. COVERAGE OF HEALTH CARE SERVICES DELIVERED THROUGH TELEMEDICINE AND BY STORE-AND-FORWARD MEANS

(a)(1) All health insurance plans in this State shall provide coverage for health care services and dental services delivered through telemedicine by a health care provider at a distant site to a patient at an originating site to the same extent that the plan would cover the services if they were provided through in-person consultation.

(2)(A) A health insurance plan shall provide the same reimbursement rate for services billed using equivalent procedure codes and modifiers, subject to the terms of the health insurance plan and provider contract, regardless of whether the service was provided through an in-person visit with the health care provider or through telemedicine.

(B) The provisions of subdivision (A) of this subdivision (2) shall not apply to services provided pursuant to the health insurance plan's contract with a third-party telemedicine vendor to provide health care or dental services.

(b) A health insurance plan may charge a deductible, co-payment, or coinsurance for a health care service or dental service provided through telemedicine ~~so~~ as long as it does not exceed the deductible, co-payment, or coinsurance applicable to an in-person consultation.

(c) A health insurance plan may limit coverage to health care providers in the plan's network. A health insurance plan shall not impose limitations on the number of telemedicine consultations a covered person may receive that exceed limitations otherwise placed on in-person covered services.

(d) Nothing in this section shall be construed to prohibit a health insurance plan from providing coverage for only those services that are medically necessary and are clinically appropriate for delivery through telemedicine, subject to the terms and conditions of the covered person's policy.

(e) ~~A health insurance plan may reimburse for teleophthalmology or teledermatology provided by store and forward means and may require the distant site health care provider to document the reason the services are being provided by store and forward means~~

(1) A health insurance plan shall reimburse for health care services and dental services delivered by store-and-forward means.

(2) A health insurance plan shall not impose more than one cost-sharing requirement on a patient for receipt of health care services or dental services delivered by store-and-forward means. If the services would require cost-sharing under the terms of the patient's health insurance plan, the plan may impose the cost-sharing requirement on the services of the originating site health care provider or of the distant site health care provider, but not both.

(f) A health insurer shall not construe a patient's receipt of services delivered through telemedicine or by store-and-forward means as limiting in any way the patient's ability to receive additional covered in-person services from the same or a different health care provider for diagnosis or treatment of the same condition.

(g) Nothing in this section shall be construed to require a health insurance plan to reimburse the distant site health care provider if the distant site health care provider has insufficient information to render an opinion.

~~(g)~~(h) In order to facilitate the use of telemedicine in treating substance use disorder, when the originating site is a health care facility, health insurers and the Department of Vermont Health Access shall ensure that the health care provider at the distant site and the health care facility at the originating site are both reimbursed for the services rendered, unless the health care providers at both the distant and originating sites are employed by the same entity.

(i) The Commissioner may require a health insurance plan to provide coverage and reimbursement for health care services delivered by audio-only telephone, by e-mail, by facsimile, or by a combination of these to the same extent as coverage and reimbursement are required for telemedicine under this section on a temporary basis, not to exceed 180 days, by emergency rule if the Commissioner deems it necessary in order to protect the public health.

~~(h)~~(j) As used in this subchapter:

* * *

(2) "Health insurance plan" means any health insurance policy or health benefit plan offered by a health insurer, as defined in 18 V.S.A. § 9402, ~~as well as~~ a stand-alone dental plan or policy or other dental insurance plan offered by a dental insurer, and Medicaid and any other public health care assistance program offered or administered by the State or by any subdivision or instrumentality of the State. The term does not include policies or plans providing coverage for a specified disease or other limited benefit coverage.

* * *

(4) "Health care provider" means a person, partnership, or corporation, other than a facility or institution, that is licensed, certified, or otherwise authorized by law to provide professional health care services, including dental services, in this State to an individual during that individual's medical care, treatment, or confinement.

* * *

(6) "Store and forward" means an asynchronous transmission of medical information, such as one or more video clips, audio clips, still images, x-rays, magnetic resonance imaging scans, electrocardiograms, electroencephalograms, or laboratory results, sent over a secure connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, Public Law 104–191 to be reviewed at a later date by a health care provider at a distant site who is trained in the relevant specialty ~~and by which~~. In store and forward, the health care provider at the distant site reviews the medical information without the patient present in real time and communicates a care plan or treatment recommendation back to the patient or referring provider, or both.

(7) "Telemedicine" means the delivery of health care services, including dental services, such as diagnosis, consultation, or treatment through the use of live interactive audio and video over a secure connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191. ~~Telemedicine does not include the use of audio-only telephone, e-mail, or facsimile.~~

Sec. 17. 18 V.S.A. § 9361 is amended to read:

§ 9361. HEALTH CARE PROVIDERS DELIVERING HEALTH CARE SERVICES THROUGH TELEMEDICINE OR BY ~~STORE-AND-FORWARD~~ STORE-AND-FORWARD MEANS

* * *

(c)(1) A health care provider delivering health care services or dental services through telemedicine shall obtain and document a patient's oral or written informed consent for the use of telemedicine technology prior to delivering services to the patient.

(A) The informed consent for telemedicine services shall be provided in accordance with Vermont and national policies and guidelines on the appropriate use of telemedicine within the provider's profession and shall include, in language that patients can easily understand:

(i) an explanation of the opportunities and limitations of delivering health care services or dental services through telemedicine;

(ii) informing the patient of the presence of any other individual who will be participating in or observing the patient's consultation with the provider at the distant site and obtaining the patient's permission for the participation or observation; and

(iii) assurance that all services the health care provider delivers to the patient through telemedicine will be delivered over a secure connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

* * *

(e) ~~A patient receiving teleophthalmology or teledermatology by store and forward means shall be informed of the right to receive a consultation with the distant site health care provider and shall receive a consultation with the distant site health care provider upon request. If requested, the consultation with the distant site health care provider may occur either at the time of the initial consultation or within a reasonable period of time following the~~

~~patient's notification of the results of the initial consultation. Receiving teledermatology or teleophthalmology by store and forward means~~

(1) A patient receiving health care services or dental services by store-and-forward means shall be informed of the patient's right to refuse to receive services in this manner and to request services in an alternative format, such as through real-time telemedicine services or an in-person visit.

(2) Receipt of services by store-and-forward means shall not preclude a patient from receiving ~~real time~~ real-time telemedicine ~~or face-to-face~~ services or an in-person visit with the distant site health care provider at a future date.

(3) Originating site health care providers involved in the ~~store and forward~~ store-and-forward process shall obtain informed consent from the patient as described in subsection (c) of this section.

Sec. 18. TELEMEDICINE REIMBURSEMENT; SUNSET

8 V.S.A. § 4100k(a)(2) (telemedicine reimbursement) is repealed on January 1, 2026.

Sec. 19. DEPARTMENT OF FINANCIAL REGULATION; STORE AND FORWARD; EMERGENCY RULEMAKING AUTHORITY

The Commissioner of Financial Regulation may require a health insurance plan to reimburse for health care services and dental services delivered by store-and-forward means to the extent practicable prior to January 1, 2021 by emergency rule if the Commissioner deems it necessary in order to protect the public health.

Sec. 20. DEPARTMENT OF VERMONT HEALTH ACCESS; MEDICAID; HEALTH CARE SERVICES DELIVERED BY TELEPHONE

During a declared state of emergency in Vermont as a result of COVID-19, the Department of Vermont Health Access shall reimburse Medicaid-participating providers for health care services delivered to Medicaid beneficiaries by telephone, including mental health services and including other services delivered by providers who may not previously have been included in the Department's telephone reimbursement policies, as long as the services provided are clinically appropriate for delivery by telephone.

* * * Health Care Workforce Strategic Plan * * *

Sec. 21. 18 V.S.A. § 9491 is amended to read:

§ 9491. HEALTH CARE WORKFORCE; STRATEGIC PLAN

(a) The Director of Health Care Reform in the Agency of Human Services shall ~~oversee the development of~~ maintain a current health care workforce development strategic plan that continues efforts to ensure that Vermont has the health care workforce necessary to provide care to all Vermont residents. ~~The Director of Health Care Reform may designate an entity responsible for convening meetings and for preparing the draft strategic plan. The Green Mountain Care Board established in chapter 220 of this title shall review the draft strategic plan and shall approve the final plan and any subsequent modifications.~~

(b)(1) ~~The~~ In maintaining the strategic plan, the Director or designee shall ~~collaborate with the area health education centers, the State Workforce Development Board established in 10 V.S.A. § 541a, the Prekindergarten-16 Council established in 16 V.S.A. § 2905, the Department of Labor, the Department of Health, the Department of Vermont Health Access, and other interested parties to develop and maintain the plan~~ consult with an advisory group composed of the following seven members, at least one of whom shall be a nurse, to develop and maintain the strategic plan:

(A) one representative of the Green Mountain Care Board's primary care advisory group;

(B) one representative of the Vermont State Colleges;

(C) one representative of the Area Health Education Centers' workforce initiative;

(D) one representative of federally qualified health centers;

(E) one representative of Vermont hospitals;

(F) one representative of physicians; and

(G) one representative of long-term care facilities.

(2) The Director or designee shall serve as the chair of the advisory group.

(c) The Director of Health Care Reform shall ensure that the strategic plan includes recommendations on how to develop Vermont's health care workforce, including:

(1) the current capacity and capacity issues of the health care workforce and delivery system in Vermont, including the shortages of health care professionals, specialty practice areas that regularly face shortages of qualified health care professionals, issues with geographic access to services, and unmet health care needs of Vermonters;

(2) ~~the resources needed to ensure that:~~

~~(A) the health care workforce and the delivery system are able to provide sufficient access to services given demographic factors in the population and in the workforce, as well as other factors;~~

~~(B) the health care workforce and the delivery system are able to participate fully in health care reform initiatives, including establishing a medical home for all Vermont residents through the Blueprint for Health pursuant to chapter 13 of this title and transitioning to electronic medical records; and~~

~~(C) all Vermont residents have access to appropriate mental health care that meets standards of quality, access, and affordability equivalent to other components of health care as part of an integrated, holistic system of care;~~

~~(3)~~ how State government, universities and colleges, the State's educational system, entities providing education and training programs related to the health care workforce, and others may develop the resources in the health care workforce and delivery system to educate, recruit, and retain health care professionals to achieve Vermont's health care reform principles and purposes; and

~~(4) reviewing data on the extent to which individual health care professionals begin and cease to practice in their applicable fields in Vermont;~~

~~(5) identifying factors which either hinder or assist in recruitment or retention of health care professionals, including an examination of the processes for prior authorizations, and making recommendations for further improving recruitment and retention efforts;~~

~~(6)~~(3) assessing the availability of State and federal funds for health care workforce development.

(c) ~~Beginning January 15, 2013, the Director or designee shall provide the strategic plan approved by the Green Mountain Care Board to the General Assembly and shall provide periodic updates on modifications as necessary.~~ [Repealed.]

Sec. 22. HEALTH CARE WORKFORCE STRATEGIC PLAN; REPORT

(a) The Director of Health Care Reform, in connection with the advisory group established pursuant to 18 V.S.A. § 9491(b) in Sec. 21 of this act, shall update the health care workforce strategic plan as set forth in 18 V.S.A. § 9491 and shall submit a draft of the plan to the Green

Mountain Care Board for its review and approval on or before December 1, 2020. The Board shall review and approve the plan within 30 days following receipt.

(b) On or before January 15, 2021, the Director shall provide the updated health care workforce strategic plan to the House Committees on Health Care and on Commerce and Economic Development and the Senate Committees on Health and Welfare and on Economic Development, Housing and General Affairs.

* * * Rural Primary Care Physician and Nursing Scholarships * * *

Sec. 23. 18 V.S.A. § 33 is added to read:

§ 33. MEDICAL STUDENTS; RURAL PRIMARY CARE

(a) The Department of Health, in collaboration with the Office of Primary Care and Area Health Education Centers Program at the University of Vermont College of Medicine (AHEC), shall establish a rural primary care physician scholarship program. The scholarships shall cover the medical school tuition for up to five third-year and up to five fourth-year medical students annually who commit to practicing primary care in a rural, health professional shortage or medically underserved area of this State. For each academic year of tuition covered by the scholarship, the recipient shall incur an obligation of two years of full-time service or four years of half-time service. Students receiving a scholarship for their third year of medical school shall be eligible to receive another scholarship for their fourth year of medical school. The amount of each scholarship shall be set at the in-state tuition rate less any other State or federal educational grant assistance the student receives for the same academic year.

(b) Approved specialties shall be all of the specialties recognized by the National Health Service Corps at the time of the scholarship award, which may include family medicine, internal medicine, pediatrics, obstetrics-gynecology, and psychiatry.

(c) A scholarship recipient who does not fulfill the commitment to practice primary care in accordance with the terms of the award shall be liable for repayment of the full amount of the scholarship, plus interest calculated in accordance with the formula determined by the National Health Service Corps for failure to complete a service obligation under that program.

Sec. 24. RURAL PRIMARY CARE PHYSICIAN SCHOLARSHIP PROGRAM; APPROPRIATION

(a) The sum of $XXX,000.00 in Global Commitment investment funds is appropriated to the Department of Health in fiscal year 2021 for scholarships for medical students who commit to practicing in a rural, health professional shortage or medically underserved area of this State in accordance with 18 V.S.A. § 33.

(b) It is the intent of the General Assembly that scholarship funds to expand Vermont's primary care physician workforce should continue to be appropriated in future years to ensure that Vermonters have access to necessary health care services, preferably in their own communities.

Sec. 25. EDUCATIONAL ASSISTANCE; NURSING STUDENTS; APPROPRIATION

(a) The sum of $1,000,000.00 in Global Commitment investment funds is appropriated to the Department of Health for additional scholarships for nursing students pursuant to the program established in 18 V.S.A. § 31, as redesignated by Sec. 27 of this act, and administered by the Vermont Student Assistance Corporation.

(b)(1) First priority for the scholarship funds shall be given to students pursuing a practical nursing certificate who will be eligible to sit for the NCLEX-PN examination upon completion of the certificate.

(2) Second priority for the scholarship funds shall be given to students pursuing an associate's degree in nursing who will be eligible to sit for the NCLEX-RN examination upon graduation.

(3) Third priority for the scholarship funds shall be given to students pursuing a bachelor of science degree in nursing.

(c) To be eligible for a scholarship under this section, applicants shall:

(1) demonstrate financial need;

(2) demonstrate academic capacity by carrying at least a 2.5 grade point average in their course of study prior to receiving the fund award; and

(3) agree to work as a nurse in Vermont for a minimum of one year following licensure for each year of scholarship awarded.

(d) Students attending an accredited postsecondary educational institution in Vermont shall receive first preference for scholarships.

(e) There shall be no deadline to apply for a scholarship under this section. Scholarships shall be awarded on a rolling basis as long as funds are available, and any funds remaining at the end of fiscal year 2021 shall roll over and shall be available to the Department of Health in fiscal year 2022 for additional scholarships as described in this section.

(f) It is the intent of the General Assembly that scholarship funds to expand Vermont's nursing workforce should continue to be appropriated in future years to ensure that

Vermonters have access to necessary health care services, preferably in their own communities.

Sec. 26. 18 V.S.A. chapter 1 is amended to read:

CHAPTER 1. DEPARTMENT OF HEALTH; GENERAL PROVISIONS

Subchapter 1. General Provisions

§ 1. GENERAL POWERS OF DEPARTMENT OF HEALTH

* * *

Subchapter 2. Health Care Professions; Educational Assistance

* * *

Sec. 27. REDESIGNATIONS

(a) 18 V.S.A. § 10 (educational assistance; incentives; nurses) is redesignated to be 18 V.S.A. § 31 in 18 V.S.A. chapter 1, subchapter 2.

(b) 18 V.S.A. § 10a (loan repayment for health care providers and Health Care Educational Loan Repayment Fund) is redesignated to be 18 V.S.A. § 32 in 18 V.S.A. chapter 1, subchapter 2.

* * * Nurse Education Programs * * *

Sec. 28. 26 V.S.A. § 1574 is amended to read:

§ 1574. POWERS AND DUTIES

(a) In addition to the powers granted by 3 V.S.A. § 129, the Board shall:

* * *

(3) Adopt rules setting standards for approval of medication nursing assistant and nursing education programs in Vermont, including all clinical facilities. The Board may

require reimbursement for actual and necessary costs incurred for site surveys. Standards for nursing education programs and clinical facilities shall:

(A) rely upon the standards of recognized national accrediting bodies without duplicating the function of those bodies;

(B) call for the annual reporting of data, including graduation rates and examination pass rates, appropriate to verify that programs are capable of meeting national standards and sustaining responsible operation in the interests of the public; and

(C) be waivable by the Director of Professional Regulation if the Director finds that a program has exhausted reasonable efforts to comply and that such waiver will not compromise a program's educational integrity.

* * *

Sec. 29. REPEAL OF BOARD OF NURSING FACULTY REQUIREMENTS IN RULE

The rules of the Board of Nursing governing the faculty of bachelor and associate degree programs and the faculty of practical nursing programs, set forth in Administrative Rules of the Board of Nursing, CVR 03-030-170, §§ 4.23 (faculty, bachelor and associate degree programs) and 4.24 (faculty, practical nursing programs), are repealed.

* * * Nurse Licensure Compact * * *

Sec. 30. 26 V.S.A. chapter 28, subchapter 5 is added to read:

Subchapter 5. Nurse Licensure Compact

§ 1647. NURSE LICENSURE COMPACT; ADOPTION

This subchapter is the Vermont adoption of the Nurse Licensure Compact as amended by the National Council of State Boards of Nursing. The form, format, and text of the Compact

have been conformed to the conventions of the Vermont Statutes Annotated. It is the intent of the General Assembly that this subchapter be interpreted as substantively the same as the Nurse Licensure Compact that is enacted by other Compact party states.

§ 1647a. FINDINGS AND DECLARATION OF PURPOSE

(a) The party states find that:

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

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

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

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

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

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

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

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

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

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

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

(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.

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

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

§ 1647b. DEFINITIONS

As used in this subchapter:

(1) "Adverse action" means any administrative, civil, equitable, or criminal action permitted by a state's laws that 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.

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

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

(4) "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.

(5) "Current significant investigative information" means:

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

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

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

(7) "Home state" means the party state that is the nurse's primary state of residence.

(8) "Licensing board" means a party state's regulatory body responsible for issuing nurse licenses.

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

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

(11) "Nurse" means RN or LPN/VN, as those terms are defined by each party state's practice laws.

(12) "Party state" means any state that has adopted this Compact.

(13) "Remote state" means a party state other than the home state.

(14) "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.

(15) "State" means a state, territory, or possession of the United States and the District of Columbia.

(16) "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.

§ 1647c. GENERAL PROVISIONS AND JURISDICTION

(a) A multistate license to practice registered or licensed practical or 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 an RN or LPN/VN, under a multistate licensure privilege, in each party state.

(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.

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

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

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

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

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

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

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

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

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

(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;

(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;

(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;

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

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

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

(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.

(e) A nurse practicing in a party state must comply with the state practice laws of the state in which the client is located at the time service is provided. The practice of nursing is not limited to patient care, but shall include all nursing practice as defined by the state practice laws of the party state in which the client is located. The practice of nursing in a party state under a multistate licensure privilege will subject a nurse to the jurisdiction of the licensing

board, the courts, and the laws of the party state in which the client is located at the time service is provided.

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

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

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

(2) A nurse who fails to satisfy the multistate licensure requirements in subsection (c) of this section due to a disqualifying event occurring after this Compact's effective date shall be ineligible to retain or renew a multistate license, and the nurse's multistate license shall be revoked or deactivated in accordance with applicable rules adopted by the Interstate Commission of Nurse Licensure Compact Administrators.

§ 1647d. 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 state and satisfies all applicable requirements to obtain a multistate license from the new home state.

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

§ 1647e. ADDITIONAL AUTHORITY INVESTED IN PARTY STATE LICENSING BOARDS

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

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

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

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

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

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

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

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

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

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

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

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

§ 1647f. COORDINATED LICENSURE INFORMATION SYSTEM

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

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

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

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

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

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

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

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

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

(1) identifying information;

(2) licensure data;

(3) information related to alternative program participation; and

(4) other information that may facilitate the administration of this Compact, as determined by Commission rules.

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

§ 1647g. INTERSTATE COMMISSION OF NURSE LICENSURE COMPACT ADMINISTRATORS; ESTABLISHMENT

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

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

(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.

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

(b) Membership, voting, and meetings.

(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.

(2) Each administrator shall be entitled to one 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.

(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.

(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 section 1647h of this chapter.

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

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

(B) 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;

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

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

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

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

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

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

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

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

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

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

(1) Establishing the fiscal year of the Commission.

(2) Providing reasonable standards and procedures:

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

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

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

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

(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.

(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.

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

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

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

(g) The Commission shall have the following powers:

(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.

(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.

(3) To purchase and maintain insurance and bonds.

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

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

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

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

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

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

(10) To establish a budget and make expenditures.

(11) To borrow money.

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

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

(14) To adopt and use an official seal.

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

(h) Financing of the Commission.

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

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

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

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

(i) Qualified immunity, defense, and indemnification.

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

(2) The Commission shall defend any administrator, officer, executive director, employee, or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person against whom the

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

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

§ 1647h. RULEMAKING

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

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

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

(1) on the website of the Commission; and

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

(d) The notice of proposed rulemaking shall include:

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

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

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

(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.

(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.

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

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

(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.

(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.

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

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

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

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

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

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

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

(l) The Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of 30 days after posting. The revision may be challenged only on grounds that the revision results in a

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

§ 1647i. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

(a) Oversight.

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

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

(b) Default, technical assistance, and termination.

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

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

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

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

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

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

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

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

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

(c) Dispute resolution.

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

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

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

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

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

(d) Enforcement.

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

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

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

§ 1647j. EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT

(a) This Compact shall become effective and binding on the earlier of the date of legislative enactment of this Compact into law by no fewer than 26 states or December 31, 2018. All party states to this Compact that also were parties to the prior Nurse Licensure

Compact superseded by this Compact ("Prior Compact"), shall be deemed to have withdrawn from the Prior Compact within six months after the effective date of this Compact.

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

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

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

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

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

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

§ 1647k. CONSTRUCTION AND SEVERABILITY

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

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

§ 1648. ADMINISTRATION OF THE NURSE LICENSURE COMPACT

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

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

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

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

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

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

(c) The Vermont State Board of Nursing may:

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

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

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

* * * Effective Dates * * *

Sec. 31. EFFECTIVE DATES

This act shall take effect on passage, except that:

(1) Secs. 21–29 (health care workforce strategic plan; rural primary care physician and nursing scholarships) shall take effect on July 1, 2021;

(2) in Sec. 16, 8 V.S.A. § 4100k(e) (coverage of health care services delivered by store-and-forward means) shall take effect on January 1, 2021; and

(3) Sec. 30 (Nurse Licensure Compact) shall take effect on February 1, 2021.